

1 know, then we need to know about that, too, because
2 we're looking at the possibility of -- of
3 consolidating classrooms and laying teachers off.
4 And so, you know, we're -- we're -- and I'm sure
5 every conservative in the audience understands this.
6 We're just at a juncture in our -- in our -- in our
7 budget and in our history of the state to where we
8 just don't have a lot of money. And I -- I don't
9 think that any taxes are going to be raised. And so
10 every dollar that we're going to spend, we need to
11 make sure that we have a -- a full and better
12 understanding of -- of -- of the process when these
13 fiscal notes come out.

14 Missouri spent, I think, close to
15 \$10 million or more. They have one major television
16 market. They have the St. Louis television market.
17 It's a much smaller state. I'm -- I'm just really
18 concerned that we're going to spend a lot more money
19 than -- than what was presented here. And we've
20 already had issues about not forecasting properly,
21 which is one of the reasons why we're in the mess
22 that we're in right now. So -- and -- and that's
23 the only thing I have for you. I was very concerned
24 and wanted you to just come and address that. And I
25 appreciate you coming to address that today.



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1 CHAIRMAN BONNEN: Mr. Veasey,
2 Georgia-- the -- George, from the Secretary of
3 State, he said that they spent \$842,000 on, in
4 essence, their media campaign --

5 REPRESENTATIVE VEASEY: Uh-huh.

6 CHAIRMAN BONNEN: -- and \$773,000 on
7 education, training and producing of I.D.s. So
8 Georgia's not quite as large a state as Texas, but
9 their media campaign there was, I think, less --

10 REPRESENTATIVE VEASEY: They have one
11 major market. I think Atlanta --

12 CHAIRMAN BONNEN: Atlanta, correct.

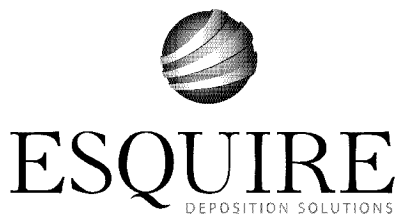
13 REPRESENTATIVE VEASEY: Houston may
14 be No. 10. I think Atlanta may be No. 11. But we
15 have several markets. We have at least two large
16 media markets, Houston and Dallas. And then we take
17 in Austin, San Antonio, Waco, Bryan College
18 Station --

19 CHAIRMAN BONNEN: They had smaller
20 markets, too.

21 REPRESENTATIVE VEASEY: -- I mean, it
22 cost a lot of money to advertise in this state.

23 CHAIRMAN BONNEN: Representative
24 Aliseda.

25 REPRESENTATIVE ALISEDA: My own



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1 observation is what's the value of an Electoral
2 system that the public has confidence in. It's
3 certainly worth more than \$2 million to me for that.

4 REPRESENTATIVE VEASEY: And -- and
5 that's -- and I understand the point that the --
6 Representative Aliseda is making. But with the
7 money that we don't have to work with this session,
8 because everything is so tight - and we're talking
9 about, you know, nursing homes possibly shutting
10 down, schools possibly being closed, classrooms
11 being consolidated - we need to have a better
12 understanding of how much money this is actually
13 going to cost than -- I mean, it's clear, you know,
14 just from everything that I've seen thus far that we
15 don't, because there's no way that it's only going
16 to cost \$2 million. That's just absolutely -- it's
17 not even realistic.

18 CHAIRMAN BONNEN: Thank you.

19 REPRESENTATIVE GUTIERREZ:

20 Mr. Chair --

21 CHAIRMAN BONNEN: Representative
22 Gutierrez.

23 REPRESENTATIVE GUTIERREZ: -- just a
24 few questions. Now, according to Secretary of
25 State, there's about 2.8 million registered voters



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1 that have voted without an I.D. Is that accurate?

2 JOHN O'BRIEN: I have no idea. I
3 don't work for the Secretary of State.

4 REPRESENTATIVE GUTIERREZ: Where --
5 the Secretary of State will be up here later.

6 UNIDENTIFIED REPRESENTATIVE: You're
7 with the LBB. Correct?

8 JOHN O'BRIEN: Yes, sir.

9 REPRESENTATIVE GUTIERREZ: And -- and
10 so I guess what I'm getting at or what -- and I
11 apologize, I was in the back room talking to my good
12 friend, Representative Pena here, about some of the
13 woes in our communities. And I didn't hear -- where
14 did two million dollars come from? Is this a number
15 that came out, or is it have some kind of --

16 JOHN O'BRIEN: They provided some
17 level of detail on it. I'll go over it again. It's
18 on Page 2 of the fiscal --

19 REPRESENTATIVE GUTIERREZ: You can
20 give me the short version.

21 JOHN O'BRIEN: Okay. About \$500,000
22 to do research, and then the balance of the
23 1.5 million was on the media campaign through
24 different -- different television and so on. And as
25 Ms. Harless said before, \$24,000 on technological



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1 improvements in order to implement this provision
2 for the disabled.

3 REPRESENTATIVE GUTIERREZ: Okay. So
4 you didn't get into the free I.D.s --

5 UNIDENTIFIED SPEAKER: No.

6 REPRESENTATIVE GUTIERREZ: -- the
7 free --

8 JOHN O'BRIEN: That's -- what DPS
9 said in response to that estimate was that they knew
10 there would a revenue loss because of those free
11 I.D.s, but they don't know how many people will come
12 forward. And -- and so they did not estimate it.

13 REPRESENTATIVE GUTIERREZ: Okay.
14 Well, in the interest of time, I'll save my
15 questions for DPS, because I think that those
16 numbers are really closer to between eight and
17 \$10 million. I think that's important to know.
18 They -- they never suggest -- did they throw a
19 number out to LBB, DPS?

20 JOHN O'BRIEN: DPS, no, sir.

21 REPRESENTATIVE GUTIERREZ: So you
22 can -- it's not fair for me to ask you about DPS.
23 We'll wait until they get up here. Thank you.

24 CHAIRMAN BONNEN: Any other
25 questions, Members? Thank you, Mr. O'Brien.



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1 JOHN O'BRIEN: Thank you.

2 CHAIRMAN BONNEN: Appreciate your
3 coming by.

4 JOHN O'BRIEN: Sure.

5 CHAIRMAN BONNEN: Chair calls Russ
6 Duerstine, Tom Green GOP Chairman and Election
7 Support Association of Tom Green County for
8 Committee Substitute Senate Bill 14.

9 RUSS DUERSTINE: Thank you,
10 Representative Bonnen. I appreciate that. Thank
11 you, Committee. Thank you, Commissioner Harless,
12 for supporting this bill.

13 I present to you a rather unique scenario.
14 In Tom Green County we have --

15 CHAIRMAN BONNEN: Sir --

16 RUSS DUERSTINE: -- we have an
17 election --

18 CHAIRMAN BONNEN: -- sir, would you
19 please state your name.

20 RUSS DUERSTINE: Russ Duerstine. I'm
21 the County Chair -- Republican County Chairman in
22 Tom Green County, San Angelo, Texas.

23 I -- I present a rather unique scenario to
24 you. We have a -- an election support
25 administration or an association in Tom Green County



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1 that's comprised of the Democrat Chairman, the
2 Republican Chairman, the Libertarian chairman. And
3 we work in close association with the elections
4 administrator there. And we provide training
5 information for election judges. We help support
6 them. We have an annual celebration where we
7 acknowledge their work as election judges. And
8 we've had a -- a scenario that, as County Chairman,
9 I'm going to define myself as quite a predicament
10 here in two years.

11 We're -- as we were putting on one of
12 these support in association trainings, we were
13 doing voter registrar training and deputy voter
14 registrar training. We had a spillover from a 2008
15 election where in the Democrat primary we had an
16 African American candidate against a Mexican
17 American candidate, and there was allegations from
18 the African American candidate that there was voter
19 impersonation going on, that he had a reputation of
20 having in the neighborhood of 300 voter registration
21 cards where he had them from folks that were dead or
22 whatever, had multiple ones, and was having people
23 go and vote in her behalf.

24 Well, it's impossible to prove that
25 without voter reg -- voter I.D. And so there was a



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1 lot of call from the -- that candidate, who did
2 eventually lose to the Hispanic candidate, to ask
3 the election administrator, "Please make them show
4 voter photo I.D."

5 And it was part of the education process
6 when we were doing deputy voter registration to
7 explain to them that the law does not allow that.

8 And so in 2010, while we were having this,
9 that dispute broke out all over again. Now, that
10 Democrat candidate went on to barely lose to the
11 Republican candidate in the only precinct in our
12 county that is a majority Democrat precinct in Tom
13 Green County.

14 The situation I find myself in is that
15 most of the grassroots Democrats that came to that
16 meeting were upset -- were blaming us as Republicans
17 for not having voter photo I.D. and they couldn't
18 understand why they didn't have that and assumed
19 that we were at fault. What's happened in the
20 meantime is the Democrat candidate, Hispanic
21 candidate that barely lost to the Republican, has
22 now changed parties. He's going to run as a
23 Republican in 2012 and very well may face this same
24 Democrat African American candidate. So I may have
25 the Democrat party in Tom Green County accusing the



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1 Republican party of having a candidate who's using
2 voter I.D. cards without photo I.D and having voter
3 impersonation to win the seat as a Republican. I
4 may be the first County Chairman in Texas to face
5 Democrats accusing us of using voter impersonation
6 to win one of our races.

7 So my point is is that among grassroots
8 rank and file Democrat voters in Tom Green County,
9 the sentiment for voter photo I.D is very high. The
10 only person who opposes it is the -- is the
11 Democratic Chairman. Thank you.

12 CHAIRMAN BONNEN: Thank you.

13 REPRESENTATIVE HARLESS: Thank you.

14 CHAIRMAN BONNEN: Any questions,
15 Members? Thank you.

16 RUSS DUERSTINE: Thank you very much.

17 CHAIRMAN BONNEN: Yes. (Inaudible).

18 Okay. We're going to see if we can have
19 the Skype work. Make it ten minutes. Have you made
20 contact with --

21 Justin Levitt, professor, Loyola Law
22 School in Los Angeles. Okay. Can he see us?

23 UNIDENTIFIED REPRESENTATIVE: He can.

24 REPRESENTATIVE VEASEY: Can he see
25 all of us?



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1 CHAIRMAN BONNEN: Can you see
2 everybody? We see you quite nicely.

3 REPRESENTATIVE VEASEY: Do we need to
4 turn on our microphones?

5 CHAIRMAN BONNEN: Only if you're
6 talking. Yeah, if you're talking.

7 UNIDENTIFIED SPEAKER: (Inaudible).

8 CHAIRMAN BONNEN: Can you begin?

9 UNIDENTIFIED SPEAKER: (Inaudible).

10 CHAIRMAN BONNEN: Must be delayed.

11 UNIDENTIFIED SPEAKER: (Inaudible).

12 CHAIRMAN BONNEN: I don't know if
13 we'll still be there in two hours.

14 UNIDENTIFIED SPEAKER: (Inaudible).

15 CHAIRMAN BONNEN: That would be
16 wonderful. And if we are here in two hours, we will
17 try and reach you again.

18 UNIDENTIFIED SPEAKER: Thank you very
19 much, Mr. Chair. (Inaudible).

20 CHAIRMAN BONNEN: Apologize for the
21 timing. Thank you.

22 Okay. So let's hold that.

23 UNIDENTIFIED REPRESENTATIVE:
24 (Inaudible).

25 CHAIRMAN BONNEN: I know.



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1 (Inaudible). Hello? Yes. Toby Moore. How are
2 you? Are you still available to give your
3 testimony?

4 TOBY MOORE: At your convenience.

5 CHAIRMAN BONNEN: We appreciate that.
6 We know we're pushing it on the time limit. We
7 apologize.

8 This is Toby Moore. He is a private
9 individual, who is a researcher, who is testifying
10 neutral on the Committee Substitute Senate Bill 14.

11 Mr. Moore, are you able to see me and the
12 Committee?

13 TOBY MOORE: Yes, I am.

14 CHAIRMAN BONNEN: Very good. You
15 have ten minutes. And -- and if you would, please,
16 state your name and -- for the record and who you're
17 with and begin your testimony. And we appreciate
18 your time.

19 TOBY MOORE: Thank you.

20 My name is Toby Moore. I'm a researcher
21 here in Washington. I work for the Department of
22 Justice as a senior researcher from 2000 to 2006
23 where I worked on photo I.D in similar cases. Since
24 leaving the Department in 2006, I've held a series
25 of jobs at American University with Carter Baker



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1 (inaudible) and a lot of profit and nonprofit
2 research organizations.

3 I'm conducting supervising research on
4 elections and voting. I'm currently advising the
5 Department of Defense on research on (inaudible)
6 voting. And as you said, I'm speaking as a private
7 citizen. I'm neutral on the bill.

8 I think that my most valuable contribution
9 to make today is to talk a little bit about the
10 Section 5 process that the bill -- that any voter
11 I.D. bill from a covered jurisdiction such as Texas
12 will go through, what parts of the bill I think will
13 come under special scrutiny. And while I will not
14 address it in my testimony, I'll be glad to talk
15 about in (inaudible) Baker proposal from 2005 and
16 the (inaudible) research into voters I.D. generally.

17 As I said, I'll be brief and -- and leave
18 time to answer any questions you might have.

19 As you know, any voter I.D. bill passed by
20 the Texas Legislature will need to pass preclearance
21 under Section 5 of the Voting Rights Act previous
22 for that. And so the bill, as you know, will go to
23 the Department of Justice Civil Rights Division or
24 the District Court in D.C.

25 Early in (inaudible) anticipate a fair but



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1 very thorough hearing. The DOJ may be a more
2 predictable avenue. It may be somewhat faster and
3 less burdensome for the State. But either -- in
4 either case, you will receive a very thorough
5 investigation of potential impacts of bill and up
6 there (inaudible).

7 Remainder of the Section 5 analysis of the
8 voter I.D. bill would focus on -- in the comparison
9 of the new law to what's called the benchmark, the
10 current law. I say this to remind the Committee
11 that the -- the voter I.D. law as -- if passed would
12 not be compared to other voter I.D. laws in the
13 country, not to the Georgia law or Indiana law, but
14 (inaudible) law, but simply as a before and after
15 comparison with Texas' own law. Obviously, the
16 Supreme Court decision upholding the Indiana voter
17 I.D. law will make it somewhat easier to win
18 preclearance, but the basic analysis will be before
19 and after the Texas -- the new Texas voter I.D. law
20 versus benchmark.

21 And this is another reminder. The burden
22 will be on the State and not in Washington, whether
23 you go to District Court or to Department of Justice
24 to meet the -- to meet the burden. The State will
25 have to show that the law does not have the intent



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1 nor the effect of abridging minority voters' rights
2 and equal right to participate in the process and
3 choose candidates of their own preference.

4 The cost of burden is on the State. The
5 State will need to be specific in its justification
6 information that it provides to Washington. In
7 particular, it would need to be very specific about
8 what Texas knows or understands or thinks about the
9 impact of the law, what it knows or thinks about who
10 does -- who does and does not have the I.D. required
11 and whether that rate of ownership varies across
12 racial and ethnic groups.

13 In the absence of any information from
14 Texas, the Department of Justice, I would expect, or
15 the District Court would look to other states, other
16 studies and experience in trying to determine what
17 this impact would be.

18 The State should be very specific about
19 remedial measures, remedial measures being efforts
20 to offset any disparate impact of the law. And
21 these measures, as I'll talk about in a minute, need
22 to be in law and in place and -- and (inaudible)
23 implemented and not promised or planned. And I
24 think the State is going to have to show,
25 particularly with the budget crutches across the



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1 country, that it is making the financial commitment
2 to follow through on any voter education, free I.D.
3 plans, that sort of thing.

4 So some elements -- particular elements of
5 the bill I think will receive particular attention,
6 and I think it's worth reminding. (Inaudible) this
7 voter I.D. bill over the last five or six years.
8 These are complicated pieces of legislation, and
9 it's very difficult to compare voter I.D.s
10 between -- voter I.D. bills between states. To
11 make -- we should avoid making blanket statements
12 about whether voter I.D. is permissible and will be
13 upheld under Section 5 of the Supreme Court.
14 Particular pieces of legislation have been
15 precleared or been upheld by the Supreme Court, but
16 these are complicated. They have different
17 (inaudible) Supreme Court of the United States even
18 if they have the same basic goal of -- of requiring
19 instead photo I.D.s.

20 Some similarities that I think are going
21 to receive particular scrutiny from either the
22 Supreme Court or the Department of Justice under
23 Section 5 of the bill of voting rights.

24 Act analysis, one of the provisions for
25 making I.D. free. I think the Court and Department



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1 of Justice have been wary of poll tax implications,
2 which that is -- even -- an implied burden on the
3 individual for the right to vote. Are there
4 guarantees in the bill that would provide -- to --
5 that make sure that people can get an I.D. for free
6 for voting without having to declare indigency is --
7 I think is going to be the first -- is going to be a
8 hurdle to meet.

9 Second, one of the specific public
10 outreach and education programs the State is
11 committing to. And I think you need both and -- you
12 need both education programs, public awareness
13 programs that inform voters of these changes, but
14 you also need outreach programs that target
15 vulnerable populations. I think we know enough now
16 that we know that the poor or the elderly, members
17 of certain racial and ethnic groups, are less likely
18 to have I.D. than other groups. And I -- I think it
19 goes a long way toward allaying fears of
20 retrogression if the State is committing and has
21 specific outreach programs to try to target those
22 communities for I.D.

23 Third, what are the fail-safe provisions?
24 What do you do if you don't have your I.D. on
25 election day to cast a provisional ballot and come



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1 out and prove it out by providing -- providing photo
2 I.D? And these can be complicated, you know.
3 States have traditionally provided for affidavit
4 fail-safes, which I understand is not part of your
5 lobbying occurring in Texas. But there are, as you
6 know, ways for people who don't have their photo
7 I.D. to cast a ballot and come back and make sure
8 that their ballot is counted.

9 Fourth, what evidence does the State have
10 the impact, both total impact and disparate impact,
11 how many people don't have I.D.? Any information
12 that the State can provide would go a long way
13 toward meeting its burden, whether these are
14 estimates, studies, surveys based on motor vehicle
15 and voter registration data. You know, I would
16 encourage the State to provide the Department of
17 Justice or the District Court with as much
18 information as you can, because otherwise you're
19 going to risk being judged on the findings from
20 other states.

21 Conversely, what evidence of voter
22 impersonation does this state have? That will be
23 important in justifying the law.

24 And, finally, particularly in light of the
25 Supreme Court ruling in Georgia versus Ashcroft



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1 (phonetic), the opinion of minority communities will
2 take a special -- will add a special voice in
3 Section 5 analysis so that the Department or the
4 Courts will pay close attention to what minority
5 groups or (inaudible) -- voting rights groups think
6 of the legislation (inaudible) to which they were
7 consulted in the process.

8 That's what I have for you today. I'll be
9 glad to answer any questions that the Committee
10 might have.

11 CHAIRMAN BONNEN: Thank you,
12 Mr. Moore. We appreciate it. Are there questions,
13 Members? Mr. Veasey? Vice Chairman Veasey has had
14 some questions, Mr. Moore.

15 REPRESENTATIVE VEASEY: Mr. Moore, I
16 wanted you to talk a little bit more about the
17 difference between Indiana and Texas being a
18 Section 5 state and how that may play into the
19 decision. I know that you said that the Texas law
20 is more likely to be upheld. But since the -- I
21 mean, since, the Supreme Court has already ruled
22 that the Indiana law is okay. And so what I was
23 wondering -- I don't believe that Indiana is a
24 Section 5 state. It may be, but I don't believe it
25 is. And so how will that play into what the DOJ's



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1 office looks into and how they reach a final
2 determination?

3 TOBY MOORE: Thank you for the
4 question.

5 You're absolutely right. On a technical
6 level, Indiana -- the Supreme Court ruling on the
7 Indiana law will not impact the analysis of the
8 Texas bill, which will be compared to the current
9 Texas law. So that -- that analysis is very
10 different.

11 But the reality is that the Department of
12 Justice is going to be less likely to object to an
13 I.D. law after the Supreme Court has upheld its
14 constitutionality as it did in the Indiana case.
15 But the -- the root analysis, the basic analysis and
16 the fundamental one is going to be the impact within
17 Texas. And so it would not be unprecedented or
18 difficult at all for the Department of Justice to
19 object to a Texas law despite it passing
20 constitutional muster or being similar to a law that
21 is passed -- been upheld by the Supreme Court. The
22 analysis is totally different.

23 CHAIRMAN BONNEN: Thank you.
24 Anything?

25 REPRESENTATIVE VEASEY: No.



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1 CHAIRMAN BONNEN: Mr. Moore,
2 Representative Aliseda has a question.

3 REPRESENTATIVE ALISEDA: Can Texas
4 avoid a DOJ review by going directly to a Court, to
5 have that determined by a Court?

6 TOBY MOORE: Well, Texas certainly
7 has that statutory avenue available to it. It's
8 going to be much less -- yes, it does. I'm sorry.

9 REPRESENTATIVE ALISEDA: That's fine.
10 Okay.

11 CHAIRMAN BONNEN: Now, Mr. Veasey --
12 let me inter -- follow up on that.

13 You said it certainly does. But I guess
14 the question is would it be wise?

15 TOBY MOORE: I think that my advice
16 would be go through the Department of Justice. It's
17 going to be quicker, it's going to be less
18 expensive, and you're going to get a fair hearing
19 from the Department of Justice.

20 If you go to the District Court, you open
21 yourself up to a court hearing. You don't know what
22 the three judge panel will look like. You may get
23 judges who are very skeptical of voter I.D. It's
24 going to take longer, and you don't know what the
25 process is going -- how the process is going to run.



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1 Texas has routinely sent changes in its
2 election and voting laws to the Department of
3 Justice. There's a relationship between those
4 avenues of communication. You know what the end
5 analysis looks like. The information can flow much
6 faster.

7 So, I mean, my -- obviously, this is
8 something that Texas will have to consider carefully
9 to make its own decision, but I don't think that you
10 would lose anything by going to the Department of
11 Justice, and I think it would be faster and less
12 expensive.

13 CHAIRMAN BONNEN: Thank you very
14 much. Representative Veasey now has a question.

15 REPRESENTATIVE VEASEY: Following up
16 on that real quickly, if the State decided to go to
17 court -- you talked about the process being quicker.
18 How long would it take, though? I mean, if they
19 went to court would they possibly not have it in
20 place in time for the next election? Like how --
21 how long does the process take, the legal process?

22 TOBY MOORE: It can really be drawn
23 out. The Court process now -- many times
24 redistricting processes are taken to the District
25 Court and put on what they call the Rocket Docket



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1 and go through fast. But I can't imagine the
2 District Court would see any need to hurry in its
3 analysis of this voter I.D. law. It's not like a
4 district is redistricting where you have
5 malapportionment that needs to be remedied. I would
6 think it would take much longer than the analysis
7 going through the DOJ, many months more.

8 REPRESENTATIVE VEASEY: Especially
9 with all the --

10 UNIDENTIFIED SPEAKER: (Inaudible).

11 REPRESENTATIVE VEASEY: -- yeah,
12 especially with the reapportionment plans. That's a
13 good point with this being a redistricting year.

14 I wanted to ask you about the likelihood
15 of the bill being passed with certain element added
16 to it or -- or -- or -- or to enhance it and make it
17 more fair.

18 Like, for instance, we talked a little bit
19 earlier before you were on about same day voter
20 registration or about, you know, fail-safe
21 affidavits to where, you know, people's vote would
22 count and then there would be some burden upon the
23 county registrar to show that there was voter
24 impersonation that was taking place. Can you give
25 me your opinion on that?



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1 TOBY MOORE: Well, I think as I've
2 testified in Texas before, my own personal
3 preference would be to implement fail-safe
4 affidavits at least for an election cycle or two and
5 then investigate what those affidavits look like and
6 see if -- and see who doesn't -- who's signing them.
7 I think that would be a good halfway measure before
8 a really hard and fast I.D. law, because if you --
9 if you ask for an I.D. and you implement the law as
10 you've written it, but then you have the affidavit
11 fail-safe, after the election you could go back and
12 look at who signed the affidavit and get a sense of
13 how many people don't have I.D., what their race and
14 ethnicity is. And it would -- it would give you a
15 stronger footing and better understanding of the
16 impact of the bill. I understand that that is
17 not -- is often seen as too much of a concession and
18 weakens the bill too much.

19 Same day election day voter registration,
20 I think, can offset some of the fears that voter
21 I.D. would suppress turnout, would give people
22 another avenue. If you go back to the Georgia --
23 2005 Georgia bill, it -- in -- the State of Georgia
24 made a rather big deal about this in 2005. That
25 bill loosens restrictions on absentee voting as a



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1 means of trying to -- to promote turnout or previous
2 avenues of turnout to offset any impact of voter
3 I.D. So I think all those things that -- should be
4 considered, although obviously voter I.D. or same
5 day or -- registration would be a -- it's a big
6 change.

7 CHAIRMAN BONNEN: Members, any other
8 questions of Mr. Moore?

9 Mr. Moore, we really appreciate your
10 working with us and doing this through this new
11 technology of Skype, and we appreciate your time and
12 thank you very much on behalf of the Committee.

13 TOBY MOORE: Thank you very much and
14 good luck.

15 CHAIRMAN BONNEN: Thank you, sir.

16 Now, obviously, it takes a moment to
17 transition from one Skype to another, but Tova Wang,
18 a senior fellow, will be testifying against. She's
19 our ex -- one of our experts. She will be provided
20 ten minutes when we get her online. Is that DEMOS,
21 D-E-M-O-S? Is that the group she's speaking on
22 behalf of? Should it be Ns? I'll ask her.

23 Mrs. Wang?

24 TOVA WANG: Yes, I'm here. How are
25 you?



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1 CHAIRMAN BONNEN: Oh, outstanding.
2 Thank you very much, Mrs. Wang. We appreciate your
3 taking the time to join us today.

4 Just for the record, you are - and I need
5 you to state it again - but Tova Wang, testifying
6 against the Committee Substitute to Senate Bill 14.
7 And you're representing D-E-M-S-S [sic], is that --
8 what is that?

9 TOVA WANG: That's DEMOS.

10 CHAIRMAN BONNEN: DEMOS. That's
11 Greek?

12 TOVA WANG: That's correct. Most
13 people don't get that.

14 CHAIRMAN BONNEN: Well --

15 TOVA WANG: Yes, for the people,
16 democracy.

17 CHAIRMAN BONNEN: Yes. If you could,
18 please, you have ten minutes. And then after your
19 ten minutes, which we will not interrupt you, you'll
20 have ten minutes uninterrupted to give your
21 testimony, and then the Committee Members may ask
22 you questions. And so -- can you see us? Uh-oh.
23 She seems to have frozen, maybe not herself
24 literally, but...

25 Yes.



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1 UNIDENTIFIED SPEAKER: She just went
2 completely off.

3 CHAIRMAN BONNEN: She needs to go get
4 with Mr. Moore. They're not far from each other.
5 That's -- the Skype went out. (Inaudible) do
6 anything special. Where's Hawk Burg (phonetic)?

7 UNIDENTIFIED SPEAKER: (Inaudible).

8 CHAIRMAN BONNEN: Well, so the --
9 Hawk Burg is out there. Let him know we're doing
10 Skype testimony. No.

11 TOVA WANG: Hello?

12 CHAIRMAN BONNEN: Yes. Can you hear
13 us? We can't see you, unfortunately, and if --

14 TOVA WANG: Yeah, I can hear you. I
15 can see you. But it looks like it's working. Now I
16 can see you.

17 UNIDENTIFIED SPEAKER: We can't see
18 you.

19 CHAIRMAN BONNEN: But we cannot see
20 you, which is a problem. But give us one moment and
21 see if we can fix that.

22 TOVA WANG: Sure.

23 CHAIRMAN BONNEN: (Inaudible). Here
24 in an hour and a half. Are you back?

25 UNIDENTIFIED REPRESENTATIVE: Yeah.



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1 CHAIRMAN BONNEN: There's
2 (inaudible). I'm sorry.

3 UNIDENTIFIED SPEAKER: Can you turn
4 your camera off and then on?

5 TOVA WANG: I'm not sure I know how
6 to. This is my first time doing this. Where would
7 the button be?

8 UNIDENTIFIED SPEAKER: On the bottom
9 of the screen there's a ribbon and there's "My
10 Video." Do you see that?

11 TOVA WANG: Yes.

12 UNIDENTIFIED SPEAKER: Okay. If you
13 would click that.

14 TOVA WANG: I'm clicking now. Okay.

15 CHAIRMAN BONNEN: Oh, very good.

16 TOVA WANG: Hello.

17 CHAIRMAN BONNEN: See, you do know
18 what you're doing, because believe me, I don't know.
19 We have the luxury of having some audio visual -- I
20 guess that isn't even the right word anymore.

21 But anyhow -- I don't know. Where did
22 Mr. Veasey disappear to? Okay.

23 But Mrs. Wang, as I was saying, if you
24 would state your name and who you're with for the
25 record, and then we'll give you ten minutes



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1 uninterrupted. And then the Committee Members will
2 ask you questions. We appreciate your time.

3 TOVA WANG: Thank you so much.
4 Thanks for allowing me to testify today. My name is
5 Tova Wang, and I'm a Senior Democracy Fellow at
6 DEMOS, a nonpartisan advocacy project and
7 organization.

8 I have been working on issues related to
9 voting rights and actually voter I.D. in particular
10 for a decade now.

11 My comments will focus on the physical
12 costs of implementing voter I.D. voting. These are
13 important situations in Texas.

14 My understanding is that the State has a
15 25 billion-dollar budget gap. Many of you serve
16 their constituents.

17 CHAIRMAN BONNEN: No problem.

18 TOVA WANG: And honestly, with this
19 voter I.D. bill, the message to the citizens of the
20 Texas is while the State does not have money to
21 fully fund programs they will rely on, it does have
22 money to implement a program that will cost millions
23 of dollars to implement and addresses a problem that
24 essentially does not exist, impersonation of another
25 voter at the polls on election day. And it



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1 threatens to disenfranchise legitimate Texan voters.

2 The fiscal note that has been produced
3 with this bill is extraordinarily flawed. It
4 measures one aspect of the cost of the
5 constitutional voter identification law, that
6 measure far off the mark. The cost to Texas to
7 implement this measure will be far higher than the
8 estimate in that document as is demonstrated in
9 other states that have implemented these laws like
10 Indiana and states that have (inaudible) pass these
11 laws determine the probable cost.

12 Let's look at providing identification for
13 people in Texas that don't have it as is required to
14 make the law pass constitutional scrutiny. That is
15 not even including the fiscal (inaudible) of Texas.
16 The note simply says the cost is unknown.

17 While you may see (inaudible) Indiana has
18 cost last year -- and mind you, that was an off year
19 election and not a Presidential year. Indiana said
20 it cost last year about \$3.5 million. Indiana has a
21 population of about 6 million citizens. It has
22 approximately 4.5 million registered voters. Texas
23 has a population of about 22 million citizens and
24 13 million registered voters. If Texas' cost per
25 person are similar to that of Indiana, Texas -- it



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1 would cost Texas between ten and \$13 million to
2 provide free I.D. in a mid-term election year, and
3 this is at a minimum. The Texan citizenry is part
4 of a more diverse -- ethnically and racially, and
5 has a substantially higher poverty rate than
6 Indiana, indicating that many more people
7 (inaudible) photo (inaudible) in Texas versus
8 Indiana. However, that figure does not even include
9 (inaudible) a huge list of other major expenses the
10 State will incur.

11 Let's talk first about voter education.
12 This is basically the only thing that's in the
13 fiscal note that's out there now. And this is a
14 serious underestimation given what we -- what will
15 be required in order for this bill to be upheld in a
16 court of law. Let me talk about Georgia for a
17 second. Georgia passed this law in 2006. Passed a
18 new law to (inaudible) flawed version of it. Among
19 other things (inaudible) education and publicity
20 campaign regarding the new requirement. Yet the
21 Court, once again, blocked the law, emphasized
22 inadequacy of (inaudible). The Court stated that if
23 the State undertakes sufficient steps to inform
24 voters of law's requirements the statute may go
25 unchallenged.



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1 Well, the Secretary of State has gone to
2 great lengths. It did several mailings and multiple
3 brochures over election sites lacking a driver's
4 license. They did PSAs on the radio, public service
5 announcements, cable television advertising and so
6 on. And then the Court later upheld the law noting
7 the significance of the State voter education
8 effort. So states agree that it's going to cost a
9 significant amount of money to view education
10 necessary for this to be basically legal.

11 In 2010, Missouri estimated that in order
12 to affect outreach before election that is
13 (inaudible) to draw new voters, it would cost 6.9
14 million dollars over three years for T.V.
15 announcements and other outreach to the State's
16 4 million registered voters. This says to me that
17 in Texas voter population and outreach for
18 (inaudible) 13 million registered voters might cost
19 \$55 million over the next three years given Texas'
20 much larger population. Given (inaudible) that
21 these numbers seem like, let's say it's half that
22 amount. Can the \$2 million estimated for voter
23 education in the Texas bill be deemed credible? I
24 think we agree it will be more than that. There are
25 also implementation costs, most of which are not



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1 addressed in the fiscal notes. Again, what I'm
2 talking about is based on my study of the range of
3 fiscal notes in other states for training. This is
4 a new -- new world that will have to be implemented
5 and implemented fairly without determination.
6 Fairly complex thing to implement. Missouri
7 estimated this would cost over \$700,000. Need to
8 hire more poll staff. In 2009, Maryland estimated
9 that just in Montgomery County additional election
10 judges would cost about \$110,000 for a primary and
11 general election. The fiscal note puts additional
12 judges at \$576,800 per precinct. So you can imagine
13 what that would be in Texas, given the number of
14 precincts.

15 You also need to create new and
16 supplemental -- supplement existing training
17 material printing additional (inaudible) setting.
18 You have staffing a help line, adding and training
19 state and local election staff. The Wisconsin
20 fiscal note approximates that full -- new full-time
21 hires will be needed to assist localities in
22 implementing the new law. (Inaudible) Registration
23 database providing training on the changes. Again,
24 Wisconsin, they estimate this will cost \$138,000.
25 Updating the website.



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1 And last but not least, the DMV is
2 currently run on reduced hours at locations.
3 Substantial State funding will be necessary to add
4 additional staff and resources to Department of
5 Motor Vehicles and Transportation. I have seen in
6 news reports that there are some places in Texas
7 where it takes more than two hours to get to a DMV.
8 This is a major issue that arose in the Supreme
9 Court opinions regarding the constitutionality of
10 the Indiana voter I.D. law.

11 The bill would also add substantially
12 (inaudible) hard-working election officials already
13 (inaudible) who are already stretched thin and by
14 an -- a variety of continuing and complicated rules.
15 One example is -- as I alluded to earlier, was
16 additional poll worker training will be required if
17 you want to make sure it's implemented in a
18 non-discriminatory action and in accordance with the
19 Voting Rights Act. We have seen that discriminatory
20 implementation of voter I.D. laws is a major
21 problem, especially with respect to Latino voters.
22 And -- and, moreover, you're really basically having
23 to train poll workers to perform a law enforcement
24 function by checking the validity of people, like
25 identifying documents. And you'll also have the



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1 additional cost of printing additional ballots.

2 So I feel that -- and yet, I have to also
3 point out just for a minute - and I know you've
4 heard this - but even if a voter I.D. will cost the
5 State nothing and require nothing of State elections
6 officials or local election officials to implement
7 and be a wrong policy -- I know that you're familiar
8 with some of these numbers, so I won't go through
9 them in detail. But we know that a large number of
10 people don't have the identification that you would
11 require in this bill, maybe as many or more as a
12 million people in Texas. And this -- this
13 proportionately affects young people, African
14 Americans, Latinos, new American citizens and low
15 income Americans. And I can provide you details on
16 that.

17 And, moreover, numerous studies, national
18 and state-specific, have found that the rare
19 examples of some voter fraud are almost never the
20 kind that could be prevented by a voter
21 identification law.

22 Voter I.D. law is (inaudible). Just one
23 exceedingly rare form of voter fraud, impersonation
24 of another registered voter at the polls. Many
25 state legislators and elections officials are



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1 promoting I.D. bills, but they admit that there has
2 never been a case in some states of -- in most
3 states of voter impersonation at the polls, yet they
4 continue to pursue this policy.

5 For example, the very small number of
6 irregularities that do occur at the polls, it seems
7 a lot of them involve people with felony convictions
8 who vote, not realizing that they are ineligible to
9 do so. Obviously, this would not be addressed by an
10 I.D. requirement, because your driver's license
11 doesn't indicate if you committed a felony in the
12 past.

13 Voter I.D. would also do nothing to do --
14 have -- do nothing to address problems with voter
15 registration fraud or (inaudible) ballot fraud. So
16 it's very important not (inaudible) complete
17 different types of fraud that we may or may not have
18 problems with in the system and automatically jump
19 to the conclusion that voter I.D. is our best
20 answer.

21 And I would conclude by saying, you know,
22 here's the bottom line: In this economy, does the
23 Texas State Legislature really want to pass a bill
24 that will mean spending millions of dollars chasing
25 a phantom problem and that might be



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1 unconstitutional?

2 Thank you very much. And I would be happy
3 to take any questions.

4 CHAIRMAN BONNEN: Thank you,
5 Mrs. Wang. I'm sorry. Thank you, Mrs. Wang. Can
6 you still see us?

7 TOVA WANG: I can.

8 CHAIRMAN BONNEN: Very good. And we
9 can still see you. Members, are there questions?
10 Yeah, Representative -- Representative Aliseda will
11 begin with questions and then Representative Veasey.

12 REPRESENTATIVE ALISEDA: What state
13 do you live in?

14 CHAIRMAN BONNEN: (Inaudible).

15 REPRESENTATIVE ALISEDA: What state
16 do you live in, ma'am?

17 TOVA WANG: Oh, I'm sorry. I live in
18 Washington, D.C., which is not a state.

19 REPRESENTATIVE ALISEDA: All right.
20 Okay. Well, you did not have the benefit of some of
21 the testimony we've had earlier, but we had
22 testimony from citizens saying that they believe the
23 electoral system in Texas is broken, and that they
24 think that this particular provision will help them
25 put more faith in the system.



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1 Your testimony has been about the cost in
2 monetary figures. But can you really put a price in
3 what it's going to take the citizens of our state to
4 accept that we are doing the best we can to try to
5 preserve the integrity -- integrity of the ballot?

6 TOVA WANG: I think it's so important
7 that voters have confidence in the election system,
8 obviously. I mean, the main goal I think for all of
9 us is that the maximum number of people participate
10 in our elections. I think what we really need to do
11 is educate people very, very honestly about what the
12 problems are in the system and what they are not.
13 And I don't think that we can generally pursue
14 public policy based on people's feelings about
15 things that aren't rooted in factual basis. I think
16 we need to deal with the real problems in our
17 election system. And I think that's the root to
18 greater voter confidence in the system, not sort of
19 creating different kind of so-called solutions that
20 don't really solve anything.

21 REPRESENTATIVE ALISEDA: Well, we've
22 had testimony from individuals saying that they
23 believe illegal aliens are voting in our elections.
24 And Texas does have -- does have an illegal alien
25 population. This might be a solution to that



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1 problem if that is the case.

2 TOVA WANG: Well, again, I'd like to
3 see the evidence for that. I mean, the research
4 that I have seen has demonstrated and -- and if you
5 look at prosecutions and activities by the
6 Department of Justice and by local prosecutors, that
7 is an extremely limited problem. There are -- and,
8 again, it's important to distinguish what the issues
9 are.

10 I understand that there have been
11 occasional times when undocumented persons have been
12 on the voter registration list. Let's keep that
13 separate from somebody who's not a documented voter,
14 which is extremely rare. I mean, let's -- let's
15 think about this very logically. I think that it's
16 been made abundantly clear to people who are in this
17 country without papers that they need to be
18 extremely careful or they're going to be deported --
19 thrown in jail and deported. And you have a
20 situation where undocumented are afraid to report
21 crimes that are committed against them, you
22 know, acts of violence, I think it sort of stretches
23 credulity that -- to think they're going to go to a
24 polling place and commit a felony that will get them
25 thrown in jail and deported. So I would want to see



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1 the evidence for people's beliefs that that is a
2 major problem.

3 REPRESENTATIVE ALISEDA: I don't know
4 how people got that belief, but it's out there. And
5 I think --

6 TOVA WANG: Well, I think, then, the
7 answer is we need more education of the voters as to
8 what is really going on in the election system and
9 do something that will actually sort of backfire and
10 end up leaving people out of the process and
11 excluding people from the process, which may only
12 weaken voter confidence in the end.

13 CHAIRMAN BONNEN: Any questions?
14 Vice Chairman Veasey has some questions.

15 REPRESENTATIVE VEASEY: Yeah. And on
16 what Representative Aliseda was saying, I'm not --
17 it -- it -- it really is interesting that people
18 sort of have these beliefs that have been around for
19 a long time about people casting fraudulent and
20 illegal votes. It's not a new phenomenon in the
21 south or in this state or in other parts of the
22 country. It just seems to have persisted long in
23 Texas and in parts of the deep south. And I think
24 that we probably do need to look at that further,
25 because, you know I thought that was interesting



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1 what you said, a lot of the things that are being
2 discussed here today just simply are not rooted in
3 the truth. They are things that people have heard.
4 They are -- they are rumors. They are things that
5 people have heard on the Internet. And I just
6 don't -- you know -- you know, just like the
7 President's birthplace, I don't know where these
8 sort of things start or where they begin and -- and
9 what gets them going, but they seem to catch on.
10 And -- and people want to change laws based on them.
11 And I just think that that is -- is very dangerous.
12 And I wanted to ask you just about the legal costs
13 for the bill.

14 I don't know if you're aware, but we have
15 a huge deficit in this state, and so we're being
16 very cautious about every dime, every penny that we
17 spend, because we're talking about actually having
18 to make kindergarten classes larger, consolidate
19 classrooms, cut teachers' salaries. Med -- nursing
20 home providers are saying they're going to have to
21 shut down some of their facilities if the budget
22 stands the way it is. We have some of our community
23 colleges, which -- which consider -- I think do a
24 great job. And I take a lot of classes at community
25 colleges. We're talking about closing down some of



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1 them.

2 What -- what sort of unexpected legal
3 costs in a large state like ours could -- could we
4 expect? Obviously, there's going to be a lot that
5 goes into investigating and -- and talking with
6 people around the State, witnesses and what have
7 you. What can we expect as far as legal costs are
8 concerned?

9 TOVA WANG: Well, first of all,
10 expect (inaudible) Voting Rights Act really
11 (inaudible). Imagine -- so that would be the first
12 step. And I'm not too sure that it will get
13 (inaudible) clearance. So there's that process
14 for -- at the outset.

15 I -- I am also willing to bet -- bet that
16 the State will be sued by any number of groups and
17 individuals -- individuals, challenging this bill
18 should it be passed. And the cost of defending the
19 bill in a track of litigation process will also be
20 substantial. And let -- let me just take the
21 opportunity to mention that I think there's a real
22 possibility that the Texas law could be struck down.
23 It's actually more restrictive than the Indiana bill
24 that was upheld by the Supreme Court temporarily, at
25 least. Indiana allows voters to present any kind of



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1 government-issued photo I.D. including from a public
2 university or employee card with the photograph.
3 The Texas laws is (inaudible), if I understand it -
4 and correct me if I'm wrong - an I.D. from the
5 Department of Public Safety, a military I.D.,
6 citizenship documents, (inaudible), gun license or
7 passport.

8 This is a much narrower set of documents,
9 which means more people are excluded from this bill.
10 For example, only 30 percent of Americans have
11 passports, so that's not currently helpful. It
12 doesn't even include tribal identification, which I
13 think clearly is a flaw that would be of interest to
14 a Court. John Tanner, the former Chief of the
15 voting section in Department of Justice under
16 President Bush, even recently noted in an article I
17 saw that distances to DMVs in Texas make the Texas
18 law more vulnerable to constitutional attack,
19 because there is such a scarcity of them and there
20 are such limited hours.

21 So I think there are a lot of things that
22 distinguish this bill from Indiana that make it very
23 vulnerable to a challenge that will then cost the
24 State money to defend.

25 REPRESENTATIVE VEASEY: And -- and



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1 one -- I know one of the things that I'm concerned
2 about is that the closest DMV to my house or in my
3 district anyway -- and my district is largely
4 African American or Hispanic, at least 70 percent
5 so, and there's no bus to the nearest one. My
6 district is in Fort Worth, Texas, and North Richland
7 Hills would be the closest voters -- or driver's
8 license place. And there's no, you know, bus or any
9 way for some folks to get out there. Now, they
10 could go across town in Fort Worth and over in
11 Wedgewood to go and get one. But the one closest to
12 my district -- and I know it's the same thing in
13 south of Dallas, too, which is a largely African
14 American and Hispanic part of Dallas. I don't know
15 that any of the places where you go to renew your
16 driver's license or get these cards are actually in
17 the community, that people have to go to north
18 Dallas, which is the more affluent section of Dallas
19 where -- where -- where most people have cars,
20 dependable transportation.

21 I wanted to ask you, also, and just in
22 your research in some of this, why would you
23 think -- why wouldn't Texas -- or -- or why wouldn't
24 other states -- I don't want to just say our state,
25 because I'm sure there are other states that are



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1 studying this, as well. But why would certain
2 states in our union want to -- why wouldn't they
3 just pass the Indiana law or the Georgia law when
4 they know those have been upheld? Do you have any
5 opinions on that? Because I was kind of concerned
6 about the fact that -- you know, that, I guess, the
7 Supreme Court and the Justice Department has already
8 cleared the ones that are on the books right now,
9 but we seem to be sort of moving in another
10 direction.

11 TOVA WANG: Yeah. I mean, as I said,
12 what you've got in the bill, as I understand, is
13 more restrictive than Indiana and certainly more
14 restrictive than Georgia, which was -- I don't
15 believe Indiana needed clearance, but Georgia's did.
16 And that was extremely controversial, as you know.
17 And perhaps Toby Moore talked about this. I'm not
18 sure the staff at the Department of Justice argued
19 for not preclearing the Georgia bill. They ended up
20 doing so, but it's far more restrictive than
21 Georgia's bill. So I don't know what's going on.

22 And, actually, Texas is not the only state
23 where the legislators are considering bills that are
24 more restrictive than those two states. Those
25 population of these states are being targeted to



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1 have -- you know, one of the things that's been
2 really striking to me is that, you know, in 2008 we
3 had this voter experience. And no matter what your
4 partisanship is, I think everyone was heartened by
5 the turnout among students, African Americans and
6 Latinos in scores and, overall, the enthusiasm. And
7 it seems like just in the moment those people are
8 coming out those voices are being silenced by laws
9 like these, and I think that's really troubling.

10 REPRESENTATIVE VEASEY: Would you be
11 able to comment on what sort of unfunded -- unfunded
12 mandate that local municipalities and counties may
13 encounter in trying to implement this law, which is
14 also another concern?

15 I know that a lot of the counties in the
16 State of Texas and lot of local governments have
17 asked that we not -- and I believe there's a bill
18 that one of the Chairmen here in the House has that
19 have -- and some people have signed onto saying no
20 unfunded mandates. Can you talk about some of
21 the -- the burdens of cost that we placed on local
22 governments?

23 TOVA WANG: Yeah. Well, I mean,
24 every state's different on how they share the cost
25 of elections. But -- so I'm not sure I can



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1 specifically talk about Texas. But I would really
2 recommend, and I can send to the Committee,
3 testimony that was submitted by the county clerks in
4 Wisconsin as a group, talking about the hardship
5 that this would put on county clerks all over the
6 State and how they would have to end up choosing
7 between providing emergency service and implementing
8 this law. So clearly the people at the local level
9 are extremely concerned about this. And I think
10 that this is at a time when elections officials,
11 especially over the last ten years when we have been
12 changing the rules on these people left and right,
13 are already pretty -- pretty overworked and pretty
14 stretched thin. And so I -- I would definitely
15 recommend looking at that testimony from Wisconsin
16 to get a sense of type of burden that would be
17 expected and also talking to local people and -- and
18 seeing how they feel about it.

19 REPRESENTATIVE VEASEY: Okay. Thank
20 you.

21 CHAIRMAN BONNEN: Any other
22 questions, Members? Mrs. Wang, thank you very much
23 for your working with us --

24 TOVA WANG: Thank you.

25 CHAIRMAN BONNEN: -- today, and have



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1 a good evening.

2 TOVA WANG: You, too.

3 CHAIRMAN BONNEN: Thank you.

4 UNIDENTIFIED REPRESENTATIVE: Not a
5 question, but an objection.

6 CHAIRMAN BONNEN: Sure.

7 UNIDENTIFIED SPEAKER: I have talked
8 to the elected officials in my county and they
9 welcome voter I.D., regardless of the cost.

10 CHAIRMAN BONNEN: Excellent. Thank
11 you.

12 Chair calls Sonia Santana, ACLU of Texas,
13 here to testify against the Committee Substitute to
14 Senate Bill 14.

15 SONIA SANTANA: Good afternoon,
16 Chairman Bonnen and Members. I thank you for the
17 opportunity to speak this afternoon.

18 My name is Sonia Santana. I'm here to
19 speak on behalf of ACLU Texas and to register our
20 position against Committee Substitute Senate Bill
21 14.

22 Our Executive Director, Terry Burk
23 (phonetic), was unable to be here, so I have
24 submitted written testimony, as well.

25 There are two concerns that I would like



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1 to address specifically on this bill. The first is
2 the cost of voter education and voter outreach, and
3 second is on provisional ballot concerns. With
4 respect to the estimated voter outreach and voter
5 education program we are also very concerned that
6 the estimated \$2 million is insufficient for an
7 adequate program to educate voters and poll workers
8 on what is a substantial change in election
9 procedure.

10 And I think this was mentioned by Tova
11 Wang, but we do know that in Missouri their fiscal
12 cost on their voter outreach program is 16.9 million
13 over three years.

14 In North Carolina, a most recent study
15 that they came out is estimating now that their cost
16 is going to be 20 million for three years. So we
17 are very concerned that the amount we have in our
18 bill is not adequate for the job.

19 On the provisional ballot area we believe
20 that Texas already has a substantial problem in
21 Texas. Nationally, the average rates for counting
22 provisional ballots is about 75 percent with
23 55 percent rejection rates. In Texas, our rejection
24 rates are opposite. We reject 75 percent of our
25 ballots and only accept 25. This statistic seems to



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1 indicate that voters and poll workers are already
2 confused about, you know, provisional ballots in
3 general and how they're cast and how they're
4 actually processed. So in the 2008 election, which
5 was our last Presidential election, we had 42,000
6 cast provisional ballots. And of those, only 32,000
7 votes -- 32,000 were rejected. So those are 32,000
8 voters that are -- already are confused about how to
9 cast a proper ballot and those votes were rejected.
10 So we think Texas already has a problem with
11 provisional ballots, and this is going to add
12 confusion to the issue and we're going to cause more
13 voters to go into this limbo of provisional ballots,
14 where they only have one in four chance of having
15 their provisional ballot count.

16 We would like to add that if this bill
17 passes, like (inaudible) suggested, the Legislature
18 actually fund a study data to collect the data on
19 rejection rates, the reason for rejection rates.
20 And, specifically, which communities are impacted by
21 these provisional ballots. Thank you.

22 CHAIRMAN BONNEN: Thank you. Any
23 questions, Members? Thank you.

24 Mary Ann Collins representing herself
25 and -- is here to testify for the Committee



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1 Substitute to Senate Bill 14.

2 MARY ANN COLLINS: I'm Mary Ann
3 Collins. I'm been election judge for almost 30
4 years. I -- I would like to address the issue of
5 fact that there's no fraud in ballot -- in
6 elections.

7 I have poll watched early voting. And
8 while I was poll watching early voting, I saw a lady
9 come in with purple hair, and that absolutely got my
10 attention. Later that afternoon I saw what I
11 thought was the very same lady with the purple hair
12 coming in to vote, and I thought, she's been here
13 before. Then I thought, oh, no, she's passed the
14 qualifying table, so I'm just misreading things. It
15 turned out later I was talking -- it dawned on me
16 that she indeed probably had been there before and
17 was voting on another person's certificate at that
18 time.

19 After our early voting was over, two or
20 three days later, I was talking to one of the clerks
21 on a completely unrelated issue and I said to her,
22 "I think there was a lady there who voted twice."
23 She said, "Oh, yes. I know exactly who you're
24 talking about. I even questioned her and asked her
25 if she had been here before, and she assured me that



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1 she had not."

2 Now, without picture I.D. there's nothing
3 to prevent a person going to early voting
4 location -- to early voting location with another
5 person's certificate. So a person in reality in
6 Dallas County in this last election could have gone
7 to 32 different polling places in early voting with
8 somebody else's certificate.

9 I would also just like to address the
10 issue that was just brought up about the provisional
11 ballot. I have also poll watched the ballot board
12 in Dallas County, and the majority of provisional
13 ballots that are rejected are rejected because
14 people are not registered to vote. So that is my
15 testimony.

16 CHAIRMAN BONNEN: Sorry we didn't
17 have more excitement for you here.

18 MARY ANN COLLINS: Well, I always
19 like to witness some.

20 CHAIRMAN BONNEN: For those of you
21 who have followed this issue know that I built quite
22 a relationship with Mrs. Collins last session
23 dealing with voter I.D. and with -- I won't name
24 names, but put one of our Members in a place that he
25 is seldom put. And so we're very proud of --



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1 MARY ANN COLLINS: It was one of my
2 shining hours.

3 CHAIRMAN BONNEN: It was one of the
4 most shining. But thank you, Mrs. Collins.

5 Any questions, Members?

6 Thank you for being here and hopefully
7 we're going to get you out of here at a decent time.

8 MARY ANN COLLINS: Thank you.

9 CHAIRMAN BONNEN: Rebecca Bradford,
10 Texas Federation of Republican Women, here to
11 testify for the Committee Substitute to Senate Bill
12 14.

13 REBECCA BRADFORD: First of all,
14 Chairman Bonnen, thank you for being here, and
15 Members of the Committee. I appreciate the work
16 that you are doing for me and -- and that you're
17 doing for my state.

18 My name is Rebecca Bradford. I live in
19 Corpus Christi in Nueces County. I'm here today
20 testifying on behalf of Texas Federation of
21 Republican Women. There are basic principles that
22 must be applied if our state is to remain strong and
23 free. And one of these basic principles is the
24 confidence of our citizens. They -- they do matter
25 when it comes to their government. The way



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1 individual citizens are involved in their government
2 is by voting for the leaders of that government.

3 In the 20 years that I've lived in south
4 Texas I've heard stories about illegal voting,
5 falsified ballots, election workers illegally
6 assisting others, ballots showing up from seemingly
7 nowhere to save the election for a particular
8 candidate and more. The stories about voter fraud
9 are so common that they are expected as a part of
10 the election process. I know people who personally
11 told me that they didn't bother to vote because they
12 didn't trust that their vote mattered. They believe
13 whomever is chosen to win will find a way to win.
14 And historically, low voter turnout reflects that
15 kind of an attitude.

16 If the State of Texas can demonstrate
17 through a strong voter identification bill that it's
18 possible to begin to strengthen honesty and fairness
19 in our elections, it will go a long way in helping
20 citizens trust our government and want to
21 participate and help to keep Texas strong.

22 Interest across the State of Texas
23 regarding fair and honest elections is very high.
24 As the President of the Texas Federation of
25 Republican Women, I travel across the State visiting



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1 clubs and visiting members. We have 162 clubs and
2 10,995 members in Texas. The one issue that gets
3 noticeable and usually vocal response from an
4 audience of TFRW audiences is fair and honest
5 elections. Our members have worked locally as
6 election judges, clerks and poll watchers, and voter
7 registration is a large project in many of our
8 clubs. TFRW members understand the value of honest
9 elections and are hoping to encourage you to take
10 this very important first step in strengthening our
11 election process.

12 March 3rd is the 2011 Texas Federation of
13 Republican Women's Legislation Day in Austin.
14 Registrations to join our legislative day were at
15 890 members as of yesterday, and our office is still
16 getting requests for late registrations. The issue
17 of fair and honest elections is the main reason for
18 their coming to visit their government. We believe
19 the only way to have fair and honest government is
20 to start with fair and honest elections of leaders
21 that run that government. The strong photo
22 identification requirements for voters will not
23 completely stop voter fraud, but it's a really good
24 place to start, and it will make elections fair and
25 honest. It will demonstrate to citizens their votes



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1 are important, and it will give citizens confidence
2 that the Texas government is working to keep Texas
3 strong.

4 Thank you very much for accepting my
5 testimony.

6 CHAIRMAN BONNEN: Members, any
7 questions? Representative Harless had a question.

8 REPRESENTATIVE HARLESS: I just want
9 to thank you for coming and staying all day.
10 Rebecca and I have been long-time friends. So thank
11 you.

12 REBECCA BRADFORD: Thank you for
13 being here, and you.

14 CHAIRMAN BONNEN: Thank you very
15 much.

16 REBECCA BRADFORD: Thank you.

17 CHAIRMAN BONNEN: Steve Finley.
18 Okay.

19 Carol Kitson, K-I-T-S-O-N, retired, here
20 to testify for Committee Substitute to Senate Bill
21 14.

22 CAROL KITSON: Carole Kitson. Good
23 afternoon. My name is Carol Kitson. I'm here to
24 testify for -- in favor of the Committee Substitute
25 for SB-14.



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1 In November 2 -- 2nd, 2010 general
2 election, I was an alternate judge at Harris County
3 precinct. Others working that day were -- included
4 presiding judge, two clerks, two volunteer poll
5 watchers and a translator. Everyone was there for
6 the entire period. In the late afternoon the
7 election clerk, who was responsible for giving each
8 voter their JBC ticket to allow them to use the
9 machine, commented to the poll watcher -- to a poll
10 watcher that he had just given a code to a man who
11 had voted earlier that day. The poll watcher agreed
12 with that and I, too, had noticed that particular
13 voter, because he had a very distinguishing
14 characteristic. He had a very distinct --
15 distinctive facial scar and he had very limited use
16 of one arm, so he was very easy to note. The
17 problem is I did not remember what name was on the
18 voter card that he had used for his first vote. And
19 because we had no way of correctly identifying him,
20 as it is currently illegal to ask for a photo I.D.,
21 he voted a second time.

22 This man was recognizable, but it's
23 impossible to know how many individuals voted more
24 than once using different voter I.D. cards during
25 that busy election day.



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1 Requiring all voters to prevent -- present
2 a voter I.D. would prevent individuals from voting
3 more than once. And it's critically important,
4 because even a few votes per precinct can
5 fraudulently -- cast fraudulently can change the
6 outcome of an election.

7 In Falls County with 9,332 registered
8 voters, a 42 percent turnout, there was a difference
9 of only 86 votes between the top two candidates for
10 Governor.

11 In Val Verde County, with 27,801 voters,
12 almost a 26 percent turnout, only 271 votes
13 separated the top two candidates for Governor.

14 And in Bexar County, with a fourth highest
15 number of registered voters in the state at 905,859
16 voters and a 34 percent turnout, the difference
17 between the winner and loser of those votes was only
18 1,692 votes. That means with 622 precincts it took
19 less than three -- three votes per precinct cast
20 fraudulently could change the entire outcome of the
21 Governor's race in that county. Each fraudulently
22 cast vote diminishes all of the valid votes cast.
23 Every legal voter in Texas deserves to know that his
24 or her vote was counted correctly, and we need to
25 know the declared winner is truly the winner and not



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1 illegally elected because some voters used illegal
2 means to get their candidate elected. We owe this
3 to ourselves, to all future generations of Texans.

4 Thank you.

5 Any questions?

6 CHAIRMAN BONNEN: Yes, ma'am. Any
7 questions, Members?

8 REPRESENTATIVE VEASEY: Dennis --

9 CHAIRMAN BONNEN: Yes, sir,
10 Mr. Veasey.

11 REPRESENTATIVE VEASEY: I would agree
12 with you, we owe it to everybody to make sure we
13 have fair elections, because, like you say, only a
14 few votes can change an election. But the problem
15 we're having is the dialogue. It needs to be a
16 two-way street. I need to be listening to what
17 you're saying, but what some of us on the panel are
18 saying and what some of our witnesses are saying,
19 too, is that we need to also understand that a few
20 disenfranchised can also swing the election another
21 way. And so everybody -- any time you come up with
22 some sort of a suggestion or solution to make it to
23 where people won't be disenfranchised, whether you
24 talk about fail-safe or whether you talk about, you
25 know, after the fail-safe affidavit or you talk



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1 about same day voter registration and, all of a
2 sudden, oh, no, oh, no. And that's where we get
3 into trouble, because then it seems like there's
4 something nebulous going on when you don't make it a
5 two-way street and just make it a one-way street.

6 And so I'll just make comments to what
7 you're saying, because I hear you loud and clear,
8 and I hear the rest of the people who have testified
9 here in favor of the bill loud and clear. But what
10 I'm saying, we've come a long way in this country,
11 and we need to make sure that both sides are being
12 fully appreciated and that concerns of all of our
13 citizens are being met and not just, you know, one
14 particular, you know, way of thought or one
15 particular avenue. I -- and so that's all -- all
16 I'll say to that. And I appreciate you coming to
17 take your time here today.

18 CAROL KITSON: I appreciate your
19 comments, but earlier I believe there was testimony
20 that 609,000 voters are listed as not having a
21 Social Security card or driver's license. You know,
22 the federal law requires everyone to have a Social
23 Security number. All citizens must have a Social
24 Security number by age one. So I would submit that
25 a large, large percentage, if not all, of those were



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1 fraudulent voters. And it's very difficult to catch
2 them, because we can't picture -- we can't take
3 photographs, we can't record. That's why you don't
4 see cases that are prosecuted. It's almost
5 impossible.

6 REPRESENTATIVE VEASEY: And -- and
7 let me just say real quick, and I'm not trying to
8 hold you up at all, but we don't know how -- why
9 those people don't have Social Security. There
10 could be a lot of --

11 CAROL KITSON: I understand.

12 REPRESENTATIVE VEASEY: -- reasons
13 why. And so that's what I think that I'm really
14 trying to get past is just the sort of assumptions
15 that people make about people whether, you know,
16 they live in a certain neighborhood or whether they
17 live -- or whether they don't have a Social Security
18 card or whether they don't have a driver's license.
19 And there's just too much of that.

20 Like, I don't know if you were here when I
21 read the E-mail earlier that the Chairwoman of the
22 Republican party sent out, where she was saying
23 there's voter fraud going on in these specific
24 precincts and we need to send people out here to
25 watch these people.



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1 CAROL KITSON: That is not
2 appropriate at all.

3 REPRESENTATIVE VEASEY: Right. And
4 we don't --

5 CAROL KITSON: And I --

6 REPRESENTATIVE VEASEY: -- want to
7 start making generalizations why someone doesn't
8 have a Social Security card by age of one. There
9 could be a variety of reasons.

10 CAROL KITSON: And I don't --

11 CHAIRMAN BONNEN: I don't think she
12 suggested why. She's simply concerned that there's
13 a large number of people who don't, and she has no
14 way of confirm --

15 CAROL KITSON: Exactly.

16 REPRESENTATIVE VEASEY: I'm sorry. I
17 misunderstood. I thought you said most of these
18 people were committing voter fraud.

19 CHAIRMAN BONNEN: She said she
20 doesn't know if they are or not.

21 CAROL KITSON: There's no way of
22 telling. No way to find out.

23 REPRESENTATIVE VEASEY: I apologize.

24 CAROL KITSON: So many came in with
25 voter I.D. cards I was shocked at how far back they



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1 went, and none of them were signed. So there's no
2 way to compare the signature.

3 CHAIRMAN BONNEN: Right.

4 CAROL KITSON: Thank you very much.

5 CHAIRMAN BONNEN: Ma'am, I apologize.
6 Representative Harless has questions.

7 REPRESENTATIVE HARLESS: We're going
8 to have an expert later from the Secretary of State
9 talking about those numbers.

10 CAROL KITSON: Uh-huh.

11 REPRESENTATIVE HARLESS: --
12 (inaudible).

13 CAROL KITSON: Oh, I will.

14 REPRESENTATIVE HARLESS: There's a
15 reason there's 690,000 people, because it wasn't
16 until 2006 that you had to list the last four of
17 Social Security or the I.D. or driver's license. So
18 there are potentially people that registered prior
19 to that - I'm one of those - that haven't moved.
20 And so I'm still using my same voter's registration
21 card that doesn't have that identification on there.
22 And I think there will be testimony to that.

23 CHAIRMAN BONNEN: Great.

24 CAROL KITSON: Thank you very much.

25 CHAIRMAN BONNEN: Ramey -- I think



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1 it's Ramey, R-A-M-E-Y, Ko or Kory [sic], K-O,
2 Attorney (inaudible) here to testify against the
3 Committee Substitute to Senate Bill 14.

4 RAMEY KO: I hope you don't mind me
5 using my computer.

6 CHAIRMAN BONNEN: No, whatever you
7 need.

8 RAMEY KO: All right. When I can --
9 can I start?

10 CHAIRMAN BONNEN: Yes. Please state
11 your name --

12 RAMEY KO: Oh, okay. My name is
13 Ramey Ko, and I'm an attorney. And I currently
14 lecture at the University of Texas and teacher as
15 well for private (inaudible) company. Some of you
16 may remember me from 2009, when I famously testified
17 on the name matching issues faced by Asian American
18 voters; resulted in some amount of controversy in
19 the media over the issue. I'm happy to hear that
20 this version of the bill had some provisions in
21 there that addresses this issue. However, I think
22 that there's certain other concerns that are
23 important to address.

24 First of all, it's very important to
25 highlight the fact that ultimately the person who's



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1 on the front line and making these decisions are
2 poll workers. These are poll workers who have a
3 very difficult job taking time out of their
4 schedules to volunteer to do something for
5 democracy; very admirable. But given the record
6 turnouts of the last few election cycles with little
7 training and funding to support them in this
8 tremendously important job, errors do occur. In
9 fact, the Asian American Legal Defense and Education
10 Fund has put forward a number of reports recently
11 through large sample size studies of numerous states
12 over the last several election cycles beginning in
13 2002. Every year they do this, they find enormously
14 large amounts of improper or incorrect behavior on
15 the part of poll workers towards Asian American
16 voters.

17 In seven states sampled in the 2008
18 election, in the majority of Asian American voters
19 sampled, the majority, more than half in every
20 single state, reported being asked for improper or
21 illegal identification under those state's laws, the
22 majority. That's under current law. That doesn't
23 require -- and these were in states that do not
24 require photo I.D. and allows that -- in states that
25 have a -- greater I.D. requirements with more



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1 complex elements that were even higher results.

2 The fact is that it's impossible to know
3 what turnout would be in the absence of such laws.
4 Just as much as people have been saying, oh, we
5 can't know how much fraud is going on, we can't know
6 how much people are being suppressed or who's being
7 discouraged from coming to the polls because of the
8 fact that they have these laws. Right?

9 Well, anecdotal evidence is hardly
10 representative of broader trends. These horror
11 stories I've heard tell me one thing, the system now
12 works. Right? These people are being caught.
13 Clearly all of these people who are coming to
14 testify and mechanisms exist to mark and review
15 suspect ballots. We do know that voter turnout
16 among low income voters and among (inaudible) areas
17 is persistently low. We also know that from
18 countless studies, personal account and personal
19 experience that many of those not originally born in
20 this country find this process intimidating. Right?

21 So I'm agreed that those (inaudible) make
22 it difficult, maybe impossible, to prove voter
23 impersonation. But then why pick this one out of
24 all possible ways to commit fraud, absentee
25 balloting -- heck, why don't we make people provide



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1 a copy of their lease or their deed to prove their
2 residency? I don't know. Maybe people are lying
3 about this all the time. Who knows? Right?

4 So why not target absentee voting first
5 where fraud is documented? Why not make people
6 produce these other types of documentations? Right?

7 We're told that provisions exist in the
8 bill to account for these name changes that we
9 testified about last time. But to what degree if
10 the problem with poll workers -- right? If my
11 driver's license says Ramey Ko and my voter
12 registration roll says Bill Hi Sun (phonetic),
13 right, is the poll worker going to say that's even
14 close enough for me to be permitted to cast that
15 real ballot? That's the judgment that's made.
16 These are the same poll workers, mind you, that
17 demanded incorrect illegal forms of I.D. in eight
18 states from the majority of Asian American voters
19 who voted.

20 We're also told that democracy's expanding
21 measures such as same day registration will be
22 easier to swallow if this passes. They ask why
23 aren't they already in this bill. If we're all so
24 determined to give people ideas [sic] -- I.D.s
25 because they need them for real life, which I agree



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1 with, working as an attorney with low income folks,
2 then why not a longer phase then? Right?

3 The fact is that I came here -- or I'm
4 here in this country because my parents came from
5 Asia in order to escape the type of government that
6 says that people who get to vote are restricted
7 based on their status or who they are.

8 The cost of faith in democracy is high.
9 The Representative earlier who spoke -- who
10 highlighted that point, very true. And millions
11 will lose that faith if this bill passes. And if
12 you really believe that the cost of democracy is
13 worth whatever costs, then put your money where your
14 mouth is. Put \$50 million into this bill to do real
15 education, real outreach, real voting assistance.

16 To echo the earlier witness, every
17 suppressed vote diminishes the vote of every other
18 person cast -- every other vote cast. Every person
19 who is scared to go to the polls because of how they
20 might be treated diminishes the vote of every other
21 per -- vote cast.

22 And that's my remarks for the day. I'm
23 open for questions.

24 CHAIRMAN BONNEN: Very good. Any
25 questions, Members? Yeah. Representative Aliseda.



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1 REPRESENTATIVE ALISEDA: Would you
2 agree with me that there's another form of voter
3 suppression and that is a voter suppression where
4 you do not believe in the system so you don't vote?

5 RAMEY KO: I think that anything that
6 diminishes the value of democracy has the potential
7 to suppress the vote.

8 The problem is that when we know that
9 there's all of these potentials out there, right, we
10 have to find a way as policymakers to make a
11 decision to weigh, right, the cost and benefits of
12 addressing certain types of potential problems with
13 that democracy.

14 To me, to say that well, this is a
15 potential issue and if it really is out there and
16 these numbers that we think it might be, it's really
17 scary. The problem's that argument could be applied
18 to absolutely anything I can come up with, right,
19 like the deed or title restriction I just mentioned
20 earlier. Why not require people to produce a title
21 or a lease in order to prove their residence?

22 UNIDENTIFIED REPRESENTATIVE: Your
23 family trees --

24 RAMEY KO: Yeah. Why not? Maybe a
25 thousand people every day are fraudulently lying



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1 about where they live.

2 UNIDENTIFIED REPRESENTATIVE: It's
3 not that farfetched. I have a home in Bee County
4 that's -- where 18 individuals are registered to
5 vote.

6 RAMEY KO: And I think we all know
7 about the trailer park, correct, and a lot of
8 controversies about exactly who's registered to vote
9 in that district or not.

10 CHAIRMAN BONNEN: Any other
11 questions, Members? Thank you for your testimony
12 today.

13 RAMEY KO: Thank you.

14 CHAIRMAN BONNEN: John Woods, a
15 graduate student, student government of the
16 University of Texas at Austin, here to testify
17 neutrally on the Committee Substitute to Senate Bill
18 14.

19 CHAIRMAN BONNEN: And, Mr. Woods, we
20 have a copy of, I guess, your testimony or -- or
21 something you've asked us to pass around. And we're
22 doing that now.

23 JOHN WOODS: Thank you. Mr. Chair,
24 Members of the Committee, thank you so much for your
25 time. I -- my name is John Woods. I'm a graduate



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1 student at University of Texas at Austin. I'm a
2 member of student government. I represent the
3 graduate school, and I am authorized to speak on
4 behalf of my constituents for this.

5 One issue a lot of graduate students face,
6 a lot of us come from out of state. We don't
7 necessarily have Texas driver's licenses. Many of
8 us, as somebody else mentioned earlier, use public
9 transportation and have no reason to have a driver's
10 license.

11 My understanding is the Supreme Court has
12 said before that you are entitled to vote where you
13 go to school whether it's in state or out of state
14 just as long as you only vote in one place and that
15 you don't necessarily need an in-state driver's
16 license to do that.

17 I, myself, am originally from the
18 Commonwealth of Virginia. I moved here in 2007.
19 And I did get a Texas license, but I would point out
20 that I could go home at any time and register to
21 vote again in Virginia with my parents' address and
22 use a Virginia driver's license, and I could
23 actually probably vote in both states
24 simultaneously. And I don't see how this bill
25 addresses that.



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1 But my real concern is that graduate
2 students be able to use student I.D.s when they go
3 vote. I think that that would be a good solution to
4 this problem. It's something that all of my
5 constituents have. I can see how maybe student
6 I.D.s need an expiration date or something like
7 that, but I think that's a solution the Committee
8 could consider looking at.

9 I'm also a little concerned about the
10 priorities of this bill. I just -- I'd like to
11 note -- note a loophole that we noticed in student
12 government, which is that you can currently go buy a
13 gun in Texas without any I.D. at all, but you
14 wouldn't be able to vote under this bill without
15 I.D. It seems strange to me that you get turned
16 away by a poll worker, go to a gun show, buy a gun,
17 and then threaten the poll worker into letting you
18 vote. I think that's a loophole in this bill, and I
19 just wanted to mention it.

20 Lastly, there's a committee hearing one
21 session ago. We had these two -- two guys who were
22 twins in student government. And they were on the
23 other side of the aisle from me, but they came and
24 testified, and they did a great job. You know, it
25 was interesting. One was out of the room when the



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1 other one was testifying. And when the second one
2 came to testify, the Chair of the committee noted,
3 "Hey, didn't you already testify?" And he said,
4 "No, no. That was my brother." Now, these two
5 guys, they dress exactly the same and they have the
6 same speech mannerisms. I still can't tell them
7 apart. Got to love them, you know. And I just -- I
8 just wanted to thank the Committee for not requiring
9 me to show an I.D. in order to testify here. Thank
10 you.

11 CHAIRMAN BONNEN: Any questions,
12 Members? Thank you.

13 UNIDENTIFIED REPRESENTATIVE: Just a
14 quick one.

15 CHAIRMAN BONNEN: Mr. (inaudible).

16 UNIDENTIFIED REPRESENTATIVE: Thank
17 you, Mr. Chairman. If you had an Oklahoma driver's
18 license but were registered at U.T., under this bill
19 would you be able to vote?

20 JOHN WOODS: My understanding is that
21 you have to have a driver's license from the Texas
22 Department of Public Safety. You could use a
23 passport, but if you did not have one --

24 UNIDENTIFIED REPRESENTATIVE: That's
25 my understanding, too. Thanks.



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1 JOHN WOODS: Thank you very much.

2 CHAIRMAN BONNEN: Ann McGeehan, the
3 Elections Division of the Secretary of State,
4 testifying neutral on Committee Substitute to Senate
5 Bill 14.

6 ANN MCGEEHAN: Good afternoon. Ann
7 McGeehan with the Office of the Texas Secretary of
8 State.

9 CHAIRMAN BONNEN: Questions, Members?
10 I think Mr. Veasey has questions.

11 REPRESENTATIVE VEASEY: I -- I --
12 I -- I'm sorry. Let me turn on the microphone. I
13 do have questions for you.

14 I was concerned about the fiscal note.
15 Can you talk a little bit about the fiscal note that
16 you all came up with? Because other smaller states,
17 states that are significantly smaller with -- than
18 ours, with a lot less television markets, came up
19 with much higher figures than you did. So that --
20 that number sort of startled me a little bit.

21 ANN MCGEEHAN: Sure. Yeah. I would
22 be happy to explain how we arrived at that figure.

23 Since the Help America Vote Act passed at
24 the federal level in 2002, the states have been
25 given some funds for voter education. So the



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1 Secretary of State's office has done a statewide
2 voter education effort in 2006, eight and ten. And
3 the average cost for those statewide voter education
4 efforts has been 2.5 million dollars. So I can tell
5 you that for the 2010 cycle what we did was we spent
6 \$2.5 million, and it included upgrades to our
7 website. We created a new website called
8 VoteTX.org, or actually redesigned it. It had been
9 created previously. We did traditional advertising
10 in television, did some PSAs in television, radio
11 newspaper, experimented a little bit on the Internet
12 with FaceBook and Twitter, and also did some ads on
13 public transportation.

14 We did seven telethons in -- in the
15 Valley, Austin, Dallas and Houston, four on Spanish
16 T.V. stations and three on English. And then we
17 also did a face-to-face outreach where we traveled
18 to 23 cities around the State and interacted
19 personally with more than 15,000 Texans. So that's
20 what -- that's kind of the model of what we've done.

21 So when we were asked to prepare a fiscal
22 note, we looked at our past voter education efforts.
23 We also looked at in 2009, when the Senate passed a
24 voter I.D. bill that contained, I think, almost the
25 same language as what's in the current Committee



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1 Substitute, Senate Finance put a rider on the bill
2 for \$2 million, which to us indicated that that at
3 least -- at least on the Senate side, that's what
4 they thought was appropriate for the voter education
5 program.

6 REPRESENTATIVE VEASEY: What was --
7 what was their methodology? I'm sorry --

8 ANN MCGEEHAN: The Senate's?

9 REPRESENTATIVE VEASEY: -- for
10 arriving at that figure?

11 ANN MCGEEHAN: I don't know.

12 REPRESENTATIVE VEASEY: Did they --
13 did they share any with you?

14 ANN MCGEEHAN: Not with me.

15 REPRESENTATIVE VEASEY: The -- it's
16 just a number they -- they put out there?

17 ANN MCGEEHAN: Yes, I don't know how
18 they arrived at that number.

19 REPRESENTATIVE VEASEY: Okay. Yeah.
20 Because I -- in Missouri it looks like the bill cost
21 a lot more than in Texas, and they have -- you know,
22 their biggest market was No. 20th. And of course
23 Dallas/Fort Worth is No. 5, and Houston is No. 7,
24 San Antonio, 30, Austin, 42, El Paso, 46. How --
25 how many -- how many television ads in the Metroplex



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1 could you buy with \$750,000?

2 ANN MCGEEHAN: Well, I know in
3 two-point -- I'm sorry, in 2010 we spent 1.8 million
4 just on purchasing the advertising.

5 REPRESENTATIVE VEASEY: Okay.

6 ANN MCGEEHAN: So I'm sure we could
7 get you the breakdown to show how much in each media
8 market, but the bulk was spent on purchasing the
9 advertising.

10 REPRESENTATIVE VEASEY: Purchasing
11 all forms of advertising?

12 ANN MCGEEHAN: Yeah. That included
13 T.V., radio --

14 REPRESENTATIVE VEASEY: Yeah.

15 ANN MCGEEHAN: -- and newspaper.

16 REPRESENTATIVE VEASEY: Do you know
17 how many spots you all were running like in the
18 Metroplex?

19 ANN MCGEEHAN: We can get you the
20 detail on that, because I know the company we
21 contracted with I think gave us a detailed report of
22 exactly where it was aired and if we got any
23 earned -- earned media, things like that. We can
24 get you that.

25 REPRESENTATIVE VEASEY: Okay.



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1 CHAIRMAN BONNEN: Representative
2 Anchia.

3 REPRESENTATIVE ANCHIA: Mr. Chairman,
4 I wanted to dovetail on a question -- the line of
5 questioning of Representative Veasey.

6 Again, Missouri had a two-year,
7 \$9.5 million estimate for their voter I.D. bill in
8 2006, including the cost of free I.D.s, poll worker
9 training and the production of -- of voter education
10 material. Missouri is a state one-fourth the size
11 of Texas. Wisconsin, that has a population less
12 than one-point -- 5.6 million people, less than
13 one-fourth the size of the State of Texas, had an
14 annual fiscal note on their bill of 2.3 million. So
15 biannual, it would be 4.6 in lost revenue due to the
16 provision of free I.D.s.

17 Maryland has a population of 5.6 million
18 where they provide free I.D.s only in limited
19 circumstances, projecting a \$1.6 million annual
20 fiscal note. In 2010, Indiana, which was later --
21 which was after -- after the initial passage of the
22 bill, which was required to provide free I.D.s, they
23 have a population of 6.4 million, about a quarter of
24 the size of the State of Texas. They spent 1.3
25 million to provide free I.D.s.



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1 In that \$2 million figure, do you have
2 any -- do you have any -- any data on the provision
3 of free I.D.s, or is it exclusively your marketing
4 budget?

5 ANN MCGEEHAN: 2 million was
6 exclusively for the voter education effort.

7 UNIDENTIFIED REPRESENTATIVE: Okay.

8 ANN MCGEEHAN: And as far as the
9 other states and -- like Missouri, I know that we --
10 we tried to get a little information, because
11 Senator Gallegos asked that question at the Senate
12 hearing.

13 UNIDENTIFIED REPRESENTATIVE: Right.

14 ANN MCGEEHAN: And one thing that was
15 different about their bill, which I think was later
16 struck down -- I don't think they ever implemented
17 the 2006 legislation --

18 UNIDENTIFIED REPRESENTATIVE: Uh-huh.

19 ANN MCGEEHAN: -- was that they were
20 actually having to install equipment throughout the
21 State to issue photo I.D.s for purposes of the
22 legislation, which is not in this bill.

23 So I -- I don't know about Wisconsin and
24 Maryland. You know, each -- it depends on what the
25 bill says.



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1 UNIDENTIFIED REPRESENTATIVE: I'll
2 talk a little bit about the media markets in
3 Missouri. St. Louis and Kansas City are the two
4 largest. They spent significantly more in
5 marketing. You're basing -- same -- same thing with
6 other states.

7 You're -- you're -- you're basing your
8 estimate on T.V. commercials, print and I guess some
9 radio, \$300,000 worth of radio on a -- an estimate
10 that -- of last year's expenditure, I guess, or a
11 prior year's expenditure with a significant change
12 if this bill passed. Would you agree it's a pretty
13 significant change to current law?

14 ANN MCGEEHAN: Yeah.

15 UNIDENTIFIED REPRESENTATIVE: Okay.
16 Do you think -- do you think that the same -- the
17 same budget that you would use last time around with
18 no significant change in state law would be
19 appropriate for a voter education program with a
20 significant change in state law?

21 ANN MCGEEHAN: Well, it's -- and I'll
22 try to state this clearly, because I don't know that
23 I explained it so well on the Senate side. But we
24 do have plans, I guess, to have continuing voter
25 education programs, because we still have HABA



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1 funds. So when we were asked to prepare this fiscal
2 note, we were assuming we're going to continue to do
3 our statewide education effort. So we looked at how
4 do we weave in the new voter I.D. requirements into
5 a statewide voter education program. So I can't
6 tell you exactly what that's going to end up being,
7 but if we're just asked for purposes of this fiscal
8 note to say what does it cost to educate on voter
9 I.D., that was our best guess, because we -- we will
10 integrate it with, you know, whatever voter
11 education program we do for 2012. So if we do
12 2.5 million effort in 2012, you know, some of that
13 will cover voter education, maybe will go to a
14 little higher than that. But I guess the point is
15 we have federal dollars to educate voters on the
16 process to vote and get registered. And so we will
17 incorporate and enhance it to include education on
18 the new voter I.D. requirements.

19 UNIDENTIFIED REPRESENTATIVE: And
20 would that -- would that education occur over a
21 year, two years? Would it be ongoing? The bill --
22 the bill doesn't specify. What's -- what's your
23 view and what do the HABA dollars come in?

24 ANN MCGEEHAN: The -- the bill I
25 think says that we have to start preparing the



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1 training and the voter education as soon as
2 possible. Our fiscal note assumes that it would
3 just be for one cycle, so I think we put it all for
4 the 2012 fiscal year.

5 We have \$7 million left in the State
6 Treasury that's earmarked for voter education and
7 poll worker training, election official training.

8 UNIDENTIFIED REPRESENTATIVE: Those
9 are HABA funds?

10 ANN MCGEEHAN: Those are the HABA
11 funds, and they don't expire. I don't think the
12 federal government can take them back, but we are
13 hearing that they're not -- they don't have any
14 plans to issue any more funds. So, essentially,
15 that's all we've got.

16 UNIDENTIFIED REPRESENTATIVE: In the
17 new -- on the significant change in legislation for
18 one election cycle, essentially for the 2012
19 election cycle?

20 ANN MCGEEHAN: Well, based on the
21 language that's in the bill.

22 UNIDENTIFIED REPRESENTATIVE: Based
23 on language that's in the bill?

24 ANN MCGEEHAN: Right.

25 UNIDENTIFIED REPRESENTATIVE: Okay.



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1 How -- for major changes in legislation -- well, let
2 me back up a step.

3 What's your evaluation of poll worker
4 training currently in the -- in the counties?

5 ANN MCGEEHAN: In the counties? I
6 think that there are a variety of tools counties can
7 use to educate poll workers. We -- with our HABA
8 dollars, we created an online poll worker training
9 that's free for all counties to use. Some counties
10 have used their HABA funds to create their own
11 specific online training. Most counties do some
12 form of in-person training, where they require
13 workers to come in, you know, see the machines,
14 learn how to operate the machines. We, the
15 Secretary of State's office, has a 30-minute video
16 that we do, and we update usually every two years.
17 That's also free of charge. So there's some
18 different ways.

19 UNIDENTIFIED REPRESENTATIVE: You
20 answered a different question, though.

21 ANN MCGEEHAN: Oh.

22 UNIDENTIFIED REPRESENTATIVE: You
23 answered what resources are available, which I
24 appreciate. But what's your -- what's your
25 assessment of the quality of poll worker training?



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1 And I know it's difficult to get poll workers.

2 There's turnover frequently. We pay them very

3 little. I believe that they're volunteers.

4 When you have a -- a change in the
5 Election Code, just a minor change, by way of
6 example, it doesn't immediately filter down to all
7 poll workers, does it? I mean, ensuring practice
8 and implementation, it's something that takes time?

9 ANN MCGEEHAN: Sure.

10 UNIDENTIFIED REPRESENTATIVE: Isn't
11 that right?

12 ANN MCGEEHAN: That's right.

13 UNIDENTIFIED REPRESENTATIVE: I mean,
14 because I hear from poll workers all the time and,
15 you know, they didn't know the law had changed. I
16 tried to do some continuing education myself, having
17 sat on the Elections Committee in the past, to bring
18 people up to speed. And I'm always very impressed
19 at how earnest the poll workers are, but also
20 sometimes very surprised -- you know, they're not
21 Election Code experts and it does take some time for
22 changes in the Election Code to filter down to them.

23 For a change of this magnitude, do you
24 think it will take some time for folks to be aware
25 of the law?



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1 ANN MCGEEHAN: I think it will take
2 some time. I think the bill has some very strict
3 requirements in there, though, that requires all
4 judges and clerks to take the Secretary of
5 State-prescribed training. So it -- it sounds to me
6 like it's a mandate that they have to take that
7 training, whereas right now in many elections it's
8 optional.

9 UNIDENTIFIED REPRESENTATIVE: How
10 much is that going to cost for everybody to take the
11 training?

12 ANN MCGEEHAN: Our plans will be to
13 update our video and to update the online training.
14 So that would be two free for, you know, counties to
15 use and for citizens to use on top of whatever the
16 counties may be using, as well.

17 UNIDENTIFIED REPRESENTATIVE: Do you
18 think with a mandate like that, would that mandate
19 be satisfied by watching the video?

20 ANN MCGEEHAN: I think it could be.
21 Currently, that is used for poll worker training.

22 UNIDENTIFIED REPRESENTATIVE: Uh-huh.
23 So that would be enough?

24 ANN MCGEEHAN: Unless the statute is
25 changed. But as currently written, I think that



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1 would satisfy the bill.

2 UNIDENTIFIED REPRESENTATIVE: Okay.

3 Does it surprise you that people -- that poll
4 workers are already asking for photo I.D. despite
5 the training that occurs? Does that surprise you?

6 ANN MCGEEHAN: We have heard that
7 before, yes.

8 UNIDENTIFIED REPRESENTATIVE: Quite a
9 bit. Even in the district that I represent we've
10 got folks that are asking for photo I.D. currently.

11 A lot of people have been talking about a
12 600,000 registered voter figure. These people --
13 these are people who apparently registered without
14 using some form -- either their Social Security
15 number or a -- a driver's license number.

16 Isn't the use even bigger than that? I
17 mean, I see a figure here that for people who did
18 not register without a driver's license number --
19 pardon me, for people who registered without their
20 driver's license ensuring the figure is more like
21 2.8 million.

22 ANN MCGEEHAN: That's true when you
23 look at the entire voter database.

24 UNIDENTIFIED REPRESENTATIVE: This is
25 your HABA-compliant database.



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1 ANN MCGEEHAN: Right. But, you know,
2 prior to January 1, 2006, you could register to vote
3 without providing your driver's license or Social
4 Security number. So people that were registered
5 before 2006 may not have provided one of those.
6 That doesn't necessarily mean that they don't have
7 one, but they didn't have to provide one to get
8 registered to vote.

9 UNIDENTIFIED REPRESENTATIVE: Well,
10 we don't know whether they did or not, because it
11 wasn't listed. Correct?

12 Have you all done a match to determine
13 with the driver's license file as to whether these
14 folks have driver's licenses or not?

15 ANN MCGEEHAN: Uh-huh. We've been
16 asked to do that and we're looking at this to make
17 sure that -- looking at the official list of voters
18 in the Secretary of State's office, trying to
19 compare that to DPS. And our IT Department is
20 looking at that, trying to get good matching
21 criteria, because without that unique identifying
22 number of the TDL, it can be sometimes difficult to
23 make sure you have the right match.

24 UNIDENTIFIED REPRESENTATIVE:
25 Somebody came up and said there was 600 -- you have



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1 that \$600,000 person figure. Where does that come
2 from? Do you have a frame of reference for that
3 figure that there were 600,000 people who did not
4 list after [sic] driver's license number or Social
5 Security number?

6 ANN MCGEEHAN: I think they're all
7 coming from the same place, which that is -- and
8 I -- you know, when we have shared information with
9 the Legislature before, we've sort of shared two
10 sets of information. One is -- that shows how many
11 people have stated they don't have a TDL number or
12 SSN number since January 1, because since --
13 January 1, 2006, because since January 1, 2006, it's
14 been required. So since that time, we show 34,506
15 voters out of almost 4 million that stated they did
16 not have I.D.

17 UNIDENTIFIED REPRESENTATIVE: Since
18 2006?

19 ANN MCGEEHAN: Yes.

20 UNIDENTIFIED REPRESENTATIVE: And is
21 there -- is there a provision -- provision in this
22 bill to identify that use of voters as possibly not
23 having I.D.?

24 ANN MCGEEHAN: I'm sorry. I didn't
25 understand.



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1 UNIDENTIFIED REPRESENTATIVE: So, I
2 mean, if you're looking at possible uses of voters
3 that may not have the requisite I.D. to comply with
4 this bill, is there anything in the bill that would
5 require you to identify those folks, seek them out,
6 determine whether they have I.D. or not?

7 ANN MCGEEHAN: No, I don't believe
8 so.

9 CHAIRMAN BONNEN: Okay. Let's
10 talk -- we talked, I know, briefly about training of
11 poll workers.

12 Under this bill, what new duties will poll
13 workers perform, what new duties?

14 ANN MCGEEHAN: Let's see. Of course,
15 the qualification process will change as far as what
16 they will, you know, require of a voter before
17 they're permitted to vote. I can't really think of
18 any new. They -- if a voter doesn't have I.D.
19 today, they vote provisionally. So that will be the
20 same.

21 I guess the main change will be voters
22 that have filed a disability exemption with the
23 Voter Registrar. Those voters aren't going to have
24 to show I.D.

25 A voter who is 70 years of age on or



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1 before January 2012 won't have to show I.D. So
2 those will be some new decisions they'll have to
3 make.

4 UNIDENTIFIED REPRESENTATIVE: Talk to
5 me about how you would administer those two
6 exceptions, the disability and the age?

7 ANN MCGEEHAN: Well, we're going to
8 have to come up with detailed training. So I
9 don't -- I don't -- I can't tell you exactly how
10 that's going to work. You know, we'll try to be
11 very thoughtful about that and look to other states
12 for best practices. But we'll have to revise our
13 handbooks, all our training, our online training,
14 video, to include guidance for the poll workers on
15 how to handle those new duties.

16 CHAIRMAN BONNEN: With respect to the
17 disability exemption, is there a document that the
18 person would put on file to receive that type of
19 exemption?

20 ANN MCGEEHAN: Yes. The -- the
21 Committee Substitute -- and that document would be
22 filed with the Voter Registrar, not with the -- not
23 at the polling place. And it allows written
24 documentation from the United States Social Security
25 Administration that evidence that the voter has a



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1 disability or written documentation from the United
2 States Department of Veterans Affairs.

3 UNIDENTIFIED REPRESENTATIVE: So
4 those are the only two ways to get the exemption?

5 ANN MCGEEHAN: Correct.

6 UNIDENTIFIED REPRESENTATIVE: Okay.
7 Okay.

8 CHAIRMAN BONNEN: Representative
9 (inaudible).

10 UNIDENTIFIED REPRESENTATIVE: Yeah,
11 yeah.

12 CHAIRMAN BONNEN: I was going to
13 allow Members of the Committee to ask questions.
14 And I see two of them have their lights on and have
15 for some time. So, I mean, if you have more
16 questions, I'll come back to you, but I'd like to
17 let the Members of the Committee go ahead.
18 Representative Harless.

19 REPRESENTATIVE HARLESS: Hi. How are
20 you?

21 ANN MCGEEHAN: I'm good. Thank you.

22 REPRESENTATIVE HARLESS: Could you
23 tell us a little bit about the ongoing training that
24 the Secretary of State does as a part of their job
25 anyway?



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1 ANN MCGEEHAN: We -- we have several
2 formats of training. We have had a 30-minute video
3 that we've had probably since the late '80s. And we
4 update that regularly, usually after a Legislative
5 session. We have detailed handbooks that are to be
6 used inside polling places. We have now an online
7 voter -- online training process, and we also do
8 schools and seminars. So we have an annual seminar
9 every summer for county officials.

10 REPRESENTATIVE HARLESS: This is --
11 this is something that you continue to do every
12 year --

13 ANN MCGEEHAN: Yes.

14 REPRESENTATIVE HARLESS: -- as part
15 your budget?

16 Can you tell me -- we've talked a lot
17 about the Help America Vote Act fund. How much
18 money was that originally?

19 ANN MCGEEHAN: I have my note on that
20 somewhere. Well, I think overall we've received
21 total for all the mandates in HABA about
22 \$200 million and -- okay. I -- I found it now. I'm
23 sorry. \$227 million dollars.

24 REPRESENTATIVE HARLESS: And how much
25 of that money have we spent?



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1 ANN MCGEEHAN: We have spent about 80
2 percent of that money. What is remaining now is
3 about \$47 million.

4 REPRESENTATIVE HARLESS: And how much
5 money in the base budget that we received in the
6 House under the Secretary of State was in that base
7 budget appropriated for HABA money for federal
8 election training?

9 ANN MCGEEHAN: I -- I believe in
10 House Bill 1 -- I don't think it's broken down by
11 purpose areas within HABA, but I think overall it
12 was about \$37 million or --

13 REPRESENTATIVE HARLESS: 43, maybe?
14 It says under B1.4, "Strategy, elections
15 improvement, administration of federal Help America
16 Act -- Vote Act."

17 ANN MCGEEHAN: I defer to you. That
18 sounds right.

19 REPRESENTATIVE HARLESS: So of the
20 \$2 million it is likely, once this bill is passed,
21 that we can request that funds from the -- from the
22 Help America Vote Act to be appropriated to spend
23 additional monies as needed to train and get up to
24 speed on the photo I.D.?

25 ANN MCGEEHAN: Right. I mean, I



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1 guess, just to be clear, we already have drawn that
2 money down based on our State plan.

3 REPRESENTATIVE HARLESS: We have it
4 set up in our base budget that we started with that
5 that Pitts (phonetic) laid out?

6 ANN MCGEEHAN: Yes.

7 REPRESENTATIVE HARLESS: There's been
8 a lot of conversation today about the 690,000 that
9 we're talking about. And I know Representative
10 Anchia mentioned to the 2.8 million or 5.2.

11 There's two sets of numbers we're working
12 with, two universes. The first universe is
13 registered voters that are from January 1st of 2006
14 to December 31st, 2010. Correct?

15 ANN MCGEEHAN: Right.

16 REPRESENTATIVE HARLESS: How many are
17 in that universe?

18 ANN MCGEEHAN: Total of all?

19 REPRESENTATIVE HARLESS: In that 2000
20 and -- January 1st, 2006 to December 31st, 2010.

21 ANN MCGEEHAN: I think the total --
22 the amount of voters that were registered during
23 that period is right under 4 million.

24 REPRESENTATIVE HARLESS: And those
25 are voters that, one, have a driver's license or



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1 I.D.; that's about 2.3 million.

2 ANN MCGEEHAN: Right.

3 REPRESENTATIVE HARLESS: Then there's
4 voters that have registered with the last four of
5 their Social Security number, which is about
6 294,000.

7 ANN MCGEEHAN: Right.

8 REPRESENTATIVE HARLESS: Then there's
9 voters that registered with both, which is 1.3
10 million. And then there's a number of people that
11 registered that said they didn't have either.

12 ANN MCGEEHAN: Correct.

13 REPRESENTATIVE HARLESS: No Social
14 Security, no I.D., driver's license. So that's
15 34,000.

16 Of that 3.9 million, that's .8 percent of
17 that universe from January 1st until December 31st.
18 Do I understand that correctly?

19 ANN MCGEEHAN: Yes, that's correct.

20 REPRESENTATIVE HARLESS: Okay. So
21 now if we take all the statewide voters that are
22 registered, all of them, even the ones prior to
23 2006, which I would fall into that category, because
24 I haven't changed my address and I still have my
25 original voter registration that gets renewed every



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1 couple years, that I did not provide a Social
2 Security last four or my I.D.

3 Of that number, how many do we have?

4 ANN MCGEEHAN: Of -- of that number
5 we have 5.2 million that showed TDL I.D. We have
6 2.1 million that have a -- a Social Security number
7 on file. And then the number of voters that have
8 both is 4.6 million.

9 REPRESENTATIVE HARLESS: Which totals
10 in -- in the ones that have neither numbers?

11 ANN MCGEEHAN: One with neither is
12 the 690,000 insuring 698,087.

13 REPRESENTATIVE HARLESS: The total
14 universes of registered voters that we have as the
15 last numbers we've received is 12 million about
16 655,000.

17 Now, of that 690,000 do we think all of
18 those people don't have either Social Security, I.D.
19 or driver's license?

20 ANN MCGEEHAN: I want to -- I want to
21 be careful on that, because, you know, we -- we
22 don't have direct evidence. But we can say that
23 before 2006 it wasn't required. So presumably, if
24 it wasn't required, people wouldn't give it.
25 Doesn't mean they didn't have it.



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1 REPRESENTATIVE HARLESS: So
2 presumably some of those 690,000 people have
3 driver's license or I.D. cards or Social Securitys
4 [sic], they just did not have to require it at the
5 time?

6 ANN MCGEEHAN: I think that would be
7 a fair statement.

8 REPRESENTATIVE HARLESS: All right.
9 Another question about the fiscal note that we've
10 talked about. Some of the counties attached, you
11 know, small amounts of money that it would cost for
12 their county. Aren't most -- how -- explain that to
13 me. How can...

14 ANN MCGEEHAN: Well, I know on the
15 Senate side there may have been some confusion
16 regarding the voter registration certificate,
17 because the bill requires that the new voter I.D.
18 requirements appear on the back of the voter
19 registration certificate. And I think that in
20 conversations with some county officials they were
21 thinking if you had to put it on the front of the
22 certificate there wouldn't be space. So they
23 thought the certificate might need to be increased
24 in size, which would increase postage, but I don't
25 think that's necessarily required. The bill doesn't



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1 say that. It just says that it goes directly on the
2 certificate.

3 I think another cost -- Tarrant County, I
4 think, had another cost for changing of the
5 provisional ballot affidavit form, some cost for
6 that.

7 REPRESENTATIVE HARLESS: Now, there's
8 some assumptions that the Secretary of State
9 typically doesn't do a lot of this work. But isn't
10 it true that they already do a lot of the work for
11 the training? So those can be absorbed as part of
12 your normal expense of your budget.

13 ANN MCGEEHAN: Right, right. We
14 would -- you know, after every session we normally
15 have to revise our training materials.

16 REPRESENTATIVE HARLESS: And can you
17 talk just a little - and I'll quit so everyone else
18 can ask their questions - but we've had some
19 questions about different last names and different
20 addresses.

21 What provisions will the Secretary of
22 State make on that, and is there training done for
23 that?

24 ANN MCGEEHAN: Currently, there's no
25 training on that, because the law is silent on the



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1 issue of what happens if the names don't match. But
2 the Senate Bill 14, the engrossed version and the
3 Committee Substitute, contains some language about
4 as long as the names are substantially similar. So
5 our training would have to include some standards
6 on, you know, what an election judge or clerk would
7 need to look for and what would be considered
8 substantially similar.

9 The addresses don't have to match right
10 now. And that -- and that doesn't change under
11 Senate Bill 14. You don't have to show, I don't
12 believe, that the -- the addresses have to -- you --
13 you're -- you have to ask every voter if they've
14 moved, but they don't have to show their -- their
15 identification doesn't have to show where they live.

16 REPRESENTATIVE HARLESS: Thank you so
17 much --

18 ANN MCGEEHAN: Sure.

19 REPRESENTATIVE HARLESS: -- for
20 waiting all day and being patient.

21 ANN MCGEEHAN: You're welcome.

22 CHAIRMAN BONNEN: Representative
23 Aliseda.

24 REPRESENTATIVE ALISEDA: What -- what
25 is the current state or federal law for purging



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1 voter lists. Do you know?

2 ANN MCGEEHAN: Yes. That's covered
3 under the National Voter Registration Act, and there
4 are some requirements associated with that. For
5 instance, you can't purge voters within so many days
6 of a November general election. You can't purge
7 voters if you suspect that they've moved until
8 you've actually reached out to those voters and sent
9 them a mailing. If they don't respond to that
10 mailing, their name goes to an inactive list or what
11 we call in Texas a suspect -- a suspense list. And
12 they stay on that list for a period of two federal
13 general elections. And if they don't vote or if
14 they don't correspond or communicate with the Voter
15 Registrar, their name would get purged on
16 November 30th of the second federal election.

17 REPRESENTATIVE ALISEDA: Well, I'm
18 trying to understand how that particular law
19 interfaces with individuals who do not have an
20 identification of some sort. You stated that since
21 2006 we have 34,000 of those individuals that have
22 indicated they don't have any form of
23 identification, but prior to 2006, we had an
24 additional 600,000 that didn't have to provide that
25 information.



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1 So when would this purging require some
2 kind of follow-up on identification?

3 ANN MCGEEHAN: Well, I don't --
4 nothing -- there's nothing in the State law or -- or
5 the federal law or this bill that would require
6 somebody that registered to vote before 2006 to now
7 provide a driver's license number or Social Security
8 number. When they present themselves for voting
9 they're going to have to show a photo I.D. But they
10 won't be required to provide that data to the Voter
11 Registrar.

12 REPRESENTATIVE ALISEDA: As far as
13 the cost of education on this issue, does the State
14 allow for public service announcements by
15 broadcasting companies that have -- have --
16 frequently do some kind of voter -- voter education?

17 ANN MCGEEHAN: Yes. We definitely
18 try to make full use of that with our PSAs.

19 REPRESENTATIVE ALISEDA: But it's not
20 figured into that two million or the --

21 ANN MCGEEHAN: No, no. That would
22 be --

23 REPRESENTATIVE ALISEDA: -- 20
24 million or whatever it is you say we spend on
25 education?



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1 ANN MCGEEHAN: Right. I mean, that's
2 something that we look for, but we'll probably go
3 out on bid to -- to -- for a company to help us form
4 this education program. And that's something we
5 look at is what companies can promise that earned
6 media so that we only pay for this much, but then we
7 get it aired more times --

8 REPRESENTATIVE ALISEDA: Are these
9 hearings earned media in a sense in that we have
10 some public interest in this and I assume people are
11 following it?

12 UNIDENTIFIED REPRESENTATIVE: We
13 shouldn't flatter ourselves.

14 REPRESENTATIVE ALISEDA: No further
15 questions.

16 CHAIRMAN BONNEN: Representative
17 Anchia, do you have more questions?

18 REPRESENTATIVE ANCHIA: Just a couple
19 more, Mr. Chairman. Thank you.

20 CHAIRMAN BONNEN: Take your time. I
21 just --

22 REPRESENTATIVE ANCHIA: I appreciate
23 that. I appreciate that.

24 The statement was made earlier in that
25 600,000-people universe that -- that there were --



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1 that that equaled fraudulent voters. Do you share
2 that belief?

3 ANN MCGEEHAN: I have no reason to
4 think that those voters are fraudulent.

5 REPRESENTATIVE ANCHIA: Okay. Okay.
6 What happens to the voter registration certificate
7 if this bill's passed in its current form?

8 ANN MCGEEHAN: It continues to exist,
9 and so it will be sent out and it will now contain
10 information on the identification requirements. And
11 then voters who are 70 -- 70 as of January 2012 and
12 the voters that have the disability exemption, they
13 will be able to use their certificate as their forms
14 of I.D.

15 REPRESENTATIVE ANCHIA: Okay. But it
16 will be sent to all registered voters. Right?

17 ANN MCGEEHAN: Yes.

18 REPRESENTATIVE ANCHIA: We have
19 13 million, roughly, 12 --

20 ANN MCGEEHAN: A little under
21 13 million today.

22 REPRESENTATIVE ANCHIA: 12.6, 12.6?

23 ANN MCGEEHAN: Yeah. Yeah.

24 REPRESENTATIVE ANCHIA: What --
25 what -- what other functional purpose would it



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1 serve? I mean, if you're not -- if you're not 70,
2 you don't have the disability exemption.

3 ANN MCGEEHAN: I guess at this point
4 it's going to serve more as a -- an informational
5 tool to the voter. It will tell them what districts
6 they're registered in, you know, which Congressional
7 district, which State Senatorial District. I think
8 there's five districts that have to be districts on
9 the certificate.

10 Tell them their county election precinct
11 number, which might help them find out where they
12 need to go vote. So I guess it would be more for
13 the voter's benefits and information.

14 REPRESENTATIVE ANCHIA: An
15 alternative approach that we've discussed many times
16 in this committee is simply adding a person's
17 picture to the voter registration certificate and --
18 which would be a pretty easy fix. I think it -- the
19 technology certainly exists. I mean, we might want
20 to import some late 1990 -- '80s technology to -- to
21 implement that very simple act, I mean, through a
22 bubble jet printer or something like that, if you
23 can find those.

24 Have you done a feasibility analysis on
25 that approach as opposed to this approach?



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1 ANN MCGEEHAN: I think there's one or
2 two bills filed this session that kind of play that
3 kind of approach. So I think we've tried to do some
4 research to -- for purpose of responding to the
5 fiscal note as to what they would take.

6 REPRESENTATIVE ANCHIA: Because it
7 seems to me that would be the easiest fix here, just
8 to add someone's photo. And there will be a
9 universe of people who don't have a photo on file.
10 Right? So if it was possible, for example, to work
11 with Commander Deese (phonetic) at DPS and merge the
12 TDL database photos down and -- and do a match
13 with -- with the HABA-compliant --

14 ANN MCGEEHAN: Right.

15 REPRESENTATIVE ANCHIA: -- statewide
16 voter registration database, and then you dump down
17 the State I.D. photos, the non-TDL photos --

18 ANN MCGEEHAN: Uh-huh.

19 REPRESENTATIVE ANCHIA: -- and then
20 you dump down maybe a CHL universe, you -- you --
21 you probably hit a pretty significant number. It
22 wouldn't be complete. I mean, you would have to
23 have some sort of mechanism at the polls to gather
24 people's photos or an outreach. But can you --
25 we've had these suggestions around for a couple



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1 sessions now. Can you talk about some of the -- the
2 opportunities there or the challenges?

3 ANN MCGEEHAN: You know, we've --
4 we've done some preliminary analysis. I think the
5 effort there would -- would be one of, you know,
6 equipment and whether it would be the State issuing
7 these cards or whether it would be the county,
8 whether we'd give the -- you know, if -- if the
9 State wanted to fund the county to have the
10 equipment necessary to capture the pictures for
11 those people that aren't --

12 REPRESENTATIVE ANCHIA: Sounds like
13 we have HABA funds for this, though. Right?

14 ANN MCGEEHAN: Well, HABA funds --
15 HABA, you know, has certain express purposes. Voter
16 education is one. I don't think we could use HABA
17 to implement voter I.D.

18 REPRESENTATIVE ANCHIA: Say that
19 again.

20 ANN MCGEEHAN: Well, HABA had -- has
21 very express requirements in the federal law.

22 REPRESENTATIVE ANCHIA: But you just
23 said you don't think you can use HABA funds to
24 implement voter I.D.

25 ANN MCGEEHAN: Well, meaning what



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1 you're talking about, to take people's pictures --

2 REPRESENTATIVE ANCHIA: So you could
3 use it to implement a photo I.D. regime, but you
4 couldn't use it to add people's photos to a voter
5 registration certificate?

6 ANN MCGEEHAN: We could look at
7 that -- at the language of the bill more closely.
8 But, you know, the main mandates of HABA were
9 provisional voting, voting system, security. We
10 could -- you know, maybe -- maybe it's more broad
11 than I'm thinking.

12 We've been very cautious with the HABA
13 funds and try to make sure we're in compliance with
14 what -- the Federal Election Systems Commission. It
15 would be curious to see if Georgia or Indiana use
16 that money -- HABA monitor [sic] that portion of
17 the -- of their implementation of voter I.D.

18 REPRESENTATIVE ANCHIA: Ms. Wang
19 talked about a vote-saving affidavit approach to
20 preventing people from being disenfranchised under
21 a -- a photo I.D. regime. Other states have it.
22 And Idaho, by way of example, has a photo I.D.
23 regime, but at the same time allows persons who are
24 unable to comply to -- to offer up a vote-saving
25 affidavit that says they are the person on the card.



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1 And, typically, the penalty for that is aggravated
2 perjury, is it not, if you bust an affidavit related
3 to an election --

4 ANN MCGEEHAN: Yes.

5 REPRESENTATIVE ANCHIA: -- and -- and
6 the penalty for that is two to ten years in jail, is
7 it not?

8 ANN MCGEEHAN: That sounds about
9 right.

10 REPRESENTATIVE ANCHIA: \$10,000 -- up
11 to \$10,000 fine.

12 ANN MCGEEHAN: Yes.

13 REPRESENTATIVE ANCHIA: And don't we
14 have an affidavit currently in -- for people who --
15 because let me back up a step.

16 We have a photo -- we have a voter I.D.
17 standard in Texas today, don't -- do we not?

18 ANN MCGEEHAN: Yes.

19 REPRESENTATIVE ANCHIA: It's our
20 voter registration certificate.

21 And when you cannot comply with that --
22 with that voter registration certificate
23 requirement, you can use other forms of I.D. like a
24 driver's license. Correct?

25 ANN MCGEEHAN: Yes.



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1 REPRESENTATIVE ANCHIA: And when
2 you -- when you use that driver's license, you sign
3 an affidavit, do you not?

4 ANN MCGEEHAN: Yes.

5 REPRESENTATIVE ANCHIA: And that's
6 contained in the poll book, is it not?

7 ANN MCGEEHAN: Right.

8 REPRESENTATIVE ANCHIA: What does
9 that affidavit say?

10 ANN MCGEEHAN: It's the voter saying
11 they don't have their voter registration
12 certificate, essentially.

13 REPRESENTATIVE ANCHIA: But there are
14 other things. Right?

15 ANN MCGEEHAN: For the affidavit?

16 REPRESENTATIVE ANCHIA: Yeah.

17 ANN MCGEEHAN: Yeah. There are
18 several affidavits.

19 REPRESENTATIVE ANCHIA: You -- you
20 haven't voted previously in this election, et
21 cetera. Correct?

22 ANN MCGEEHAN: Uh-huh, yes.

23 REPRESENTATIVE ANCHIA: Okay. And if
24 the standard is -- is flipped and suddenly you have
25 a photo -- a photo I.D. requirement, what would



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1 be -- a Voter Registrar affidavit look like?

2 Because currently if you can comply with the voter
3 requirement, you can give an alternative form of --
4 of identification, which may or may not be a photo
5 I.D. If you go to a photo I.D. regime, what would a
6 vote-saving affidavit look like, so that people who
7 otherwise would comply, could comply, who are
8 eligible to vote do not get their votes rejected?

9 ANN MCGEEHAN: Well, we -- we could
10 look at, you know, what some of the other states
11 have done with respect to that. Michigan, for
12 example.

13 REPRESENTATIVE ANCHIA: Ohio.

14 ANN MCGEEHAN: Ohio. I think I heard
15 Florida earlier today.

16 REPRESENTATIVE ANCHIA: Right, right.

17 But that would prevent people from being
18 disenfranchised if they could not comply with this,
19 as you said, major change in state law?

20 ANN MCGEEHAN: Yeah. I mean, that
21 would be -- that's a policy call for the
22 Legislature, but...

23 REPRESENTATIVE ANCHIA: Right.

24 What's the standard for match in this
25 bill? I show up, my hair's longer. I saw Ramey Ko



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1 today. His hair's longer than two years ago when he
2 testified. Sometimes people look differently --

3 ANN MCGEEHAN: Uh-huh.

4 REPRESENTATIVE ANCHIA: -- I mean,
5 photo I.D.s are good for 10-year periods in some
6 cases. Right?

7 ANN MCGEEHAN: Right, right.

8 REPRESENTATIVE ANCHIA: Didn't know
9 it. Ten years later, I look pretty different than I
10 did ten years ago.

11 What's the -- what's the -- what's the
12 standard for a visual identification?

13 ANN MCGEEHAN: I don't know that the
14 bill has -- has -- has a -- has a standard
15 necessarily. It says that -- that -- that -- the
16 language basically says that the documentation
17 establishes, I think, they're identity.

18 REPRESENTATIVE ANCHIA: From the
19 proof presented. Correct?

20 ANN MCGEEHAN: From the proof, yes.
21 So that would clearly be an area that we would need
22 to address that training.

23 REPRESENTATIVE ANCHIA: Ultimately,
24 it's subjective. Right? The poll worker is given
25 the opportunity to either confirm or deny the



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1 identity. Right?

2 ANN MCGEEHAN: Right.

3 REPRESENTATIVE ANCHIA: And there's
4 no guidance in the bill to tell us --

5 ANN MCGEEHAN: Right. To --

6 REPRESENTATIVE ANCHIA: -- how to --

7 ANN MCGEEHAN: Right. To a certain
8 extent that is an issue today. If a -- if a person
9 shows eye -- they don't have their certificate and
10 they don't show their driver's license, other I.D.
11 is authorized. And there's similar language in the
12 current law about, you know, establishing
13 identification from the -- from the identification
14 providing. But I think that would be something we
15 would need to address in training. And we would
16 certainly look to some of the other states that have
17 implemented already and try to borrow some best
18 practices.

19 REPRESENTATIVE ANCHIA: Do you know
20 how other states approach this?

21 ANN MCGEEHAN: I do not, not today.

22 REPRESENTATIVE ANCHIA: Okay. That's
23 it. Thank you, Mr. Chairman.

24 REPRESENTATIVE HARLESS:
25 Mr. Chairman, I have one follow-up question.



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1 You just got through mentioning about --
2 and -- and we all concerned [sic] about the
3 discretion. Section 63.010 talks about the
4 documentation proof of identification. Currently,
5 the poll worker has that discretion. You all would
6 just define those standards differently. Is that
7 correct?

8 ANN MCGEEHAN: Right. I think we
9 would address it specifically in our training.
10 Right now, that's not specifically addressed in our
11 training.

12 REPRESENTATIVE HARLESS: (Inaudible)
13 poll worker (inaudible).

14 ANN MCGEEHAN: That's correct.

15 CHAIRMAN BONNEN: Any other
16 questions, Members? Thank you. Appreciate your
17 being here.

18 Members, is there any desire to bring up a
19 resource witness from the Department of Public
20 Safety Driver's License Division? Okay.

21 Rebecca Davio from the Department of
22 Public Safety testifying neutrally on the Committee
23 Substitute Senate Bill 14.

24 REBECCA DAVIO: Good afternoon,
25 Chairman Bonnen, Members. My name is Rebecca Davio,



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1 and I'm with the Driver's License Division of the
2 Department of Public Safety.

3 CHAIRMAN BONNEN: Members, questions?
4 Representative Anchia.

5 REPRESENTATIVE ANCHIA: Thank you.
6 Thank you, Mr. Chairman. Hi, Rebecca.

7 REBECCA DAVIO: Hi there.

8 REPRESENTATIVE ANCHIA: Welcome.

9 REBECCA DAVIO: Thank you very much.

10 REPRESENTATIVE ANCHIA: Rebecca, in
11 the current budget, DPS services is currently
12 21 percent under it's ideal budget. Is that
13 correct?

14 REBECCA DAVIO: 21 percent under it's
15 ideal budget? We are definitely underfunded to be
16 able to provide the level of service that we want.
17 I haven't done that particular calculation.

18 REPRESENTATIVE ANCHIA: So the data
19 we received is that the -- the current 2010, 2011
20 driver's license services line item was 47,890,758.
21 The request for 2013 is 60 thousand [sic] 656,690.
22 That -- that equals for 2012, 2013, 47,689,052, 21
23 percent under the requested amount.

24 Would -- wouldn't providing free I.D.s
25 affect some of your revenue stream for -- for state



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1 I.D.s that you derive from state I.D.s, from the
2 issuance of state I.D.s?

3 REBECCA DAVIO: The revenue from
4 driver's licenses and I.D.s doesn't come back to the
5 Department of Public Safety or to the Driver's
6 License Division. I believe those funds actually go
7 to the Mobility Fund.

8 REPRESENTATIVE ANCHIA: To the
9 Mobility Fund?

10 REBECCA DAVIO: Yes, sir.

11 REPRESENTATIVE ANCHIA: So how would
12 they impact the Mobility Fund?

13 REBECCA DAVIO: The revenue may be
14 decreased if -- for -- the free voter I.D.s.

15 REPRESENTATIVE ANCHIA: Okay. Yeah.
16 Including -- including those that would be required
17 for, I guess, people who are indigent under this
18 bill or -- right?

19 I mean, is -- is -- my assumption is that
20 you'd have to pass out some significant amounts of
21 free I.D.s in order for this -- in order for those
22 people who did not have compliant photo I.D. to be
23 able to vote. Correct?

24 REBECCA DAVIO: Well, the numbers
25 show that there's probably about almost 19 million



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1 people in Texas that have an active driver's license
2 or I.D. And I believe that there were almost
3 13 million registered voters.

4 REPRESENTATIVE ANCHIA: Uh-huh.

5 REBECCA DAVIO: And the language that
6 is in this Committee Substitute that says if you
7 already have a driver's license or an I.D. or one of
8 those acceptable forms of identification, then you
9 don't have to get another special voter I.D.

10 REPRESENTATIVE ANCHIA: But there
11 will be some percentage of people who currently pay
12 for a State I.D., right, that will realize that they
13 can forego the cost of that State I.D. by simply
14 registering to vote and then receive a -- a free
15 driver's license from DPS. Right?

16 REBECCA DAVIO: They would not be
17 able to receive a free driver's license. They would
18 be able to receive a free I.D. --

19 REPRESENTATIVE ANCHIA: A free I.D.

20 REBECCA DAVIO: -- if they hadn't
21 already registered to vote. They said it was for
22 voting purposes, yes, sir.

23 REPRESENTATIVE ANCHIA: Right, right.

24 Even if 30 percent of people paying for
25 new or renewed I.D.s use this bill to get a free



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1 I.D., it seems like, to me, running the numbers, it
2 would -- it would cost the State at least 1.4
3 million, and that's 30 percent of people who are
4 either paying for anything -- a new I.D. or seeking
5 a renewal of an I.D. And that's just at 30 percent.
6 If it was 90 -- if the percentage was higher, it
7 would be up to 4.2 million.

8 That's without even discussing the need.
9 That would not even include the influx of registered
10 voters who would need photo I.D. I mean, that's
11 just people who would be transfers from a State I.D.
12 to a free photo I.D. for purposes of voting. And,
13 again, using very conservative numbers, about
14 30 percent of that -- of that universe. So did
15 you -- did you collaborate on the fiscal note?

16 REBECCA DAVIO: Yes, sir. We -- we
17 looked at this bill -- not at the Committee
18 Substitute. We didn't prepare the fiscal estimate
19 for the Committee Substitute, but we did look at the
20 original bill.

21 REPRESENTATIVE ANCHIA: At the
22 underlying bill.

23 REBECCA DAVIO: Yes.

24 REPRESENTATIVE ANCHIA: And what was
25 your methodology to arrive at -- do you think that



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1 number is a good number?

2 REBECCA DAVIO: The \$2 million --
3 it's approximately \$2 million that's in the current
4 fiscal note is just for the Secretary of State
5 costs.

6 REPRESENTATIVE ANCHIA: Right.

7 REBECCA DAVIO: The Department of
8 Public Safety was unable to estimate how many people
9 might come in to get a voter I.D.

10 REPRESENTATIVE ANCHIA: That's
11 strange, because in -- in 2005, when Mary Denny
12 (phonetic) had a -- a photo I.D. bill, you all did
13 provide an estimate.

14 REBECCA DAVIO: I -- I think all the
15 top leadership in the Department and in the Driver's
16 License Division has changed. And, you know, when
17 we looked at this bill and we were just really
18 unable -- uncomfortable with trying to come up with
19 an estimate of how many people might take advantage
20 and come in and say that they wanted an I.D. for
21 free.

22 So we simply provided the information that
23 said, you know, here's the cost and here's the --
24 the potential --

25 REPRESENTATIVE ANCHIA: But there



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1 will be some cost, you imagine?

2 REBECCA DAVIO: There may be, yes,
3 sir.

4 REPRESENTATIVE ANCHIA: There may --

5 REBECCA DAVIO: There may, yes,
6 sir --

7 REPRESENTATIVE ANCHIA: -- be. You
8 want to hedge by saying may?

9 REBECCA DAVIO: Yes, sir.

10 REPRESENTATIVE ANCHIA: All right.
11 All right. Okay. But to be clear, the cost to your
12 agency are not in the fiscal note?

13 They're -- the fiscal note does not
14 contemplate any cost of free I.D.s to your agency.
15 Correct?

16 REBECCA DAVIO: That is correct, sir.

17 REPRESENTATIVE ANCHIA: Okay. Thank
18 you.

19 CHAIRMAN BONNEN: Any other
20 questions, Members? Thank you.

21 REBECCA DAVIO: Thank you.

22 CHAIRMAN BONNEN: David Maxwell,
23 Deputy Director of the Office of the Attorney
24 General is here as a resource witness if anyone
25 would like to bring him up.



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1 Sure. Why not?

2 REPRESENTATIVE ANCHIA: Thank you,
3 Mr. Chairman.

4 DAVID MAXWELL: My name is David
5 Maxwell, Deputy Director of the Law Enforcement
6 Division of the Texas Office of Attorney General.

7 CHAIRMAN BONNEN: Mr. Anchia?

8 REPRESENTATIVE ANCHIA: Thank you,
9 Mr. Chairman.

10 Mr. Maxwell, is it?

11 DAVID MAXWELL: Yes, it is.

12 REPRESENTATIVE ANCHIA: Thank you.
13 Thank you for testifying today.

14 The Attorney General's office is -- is --
15 since 2006, I believe, spent lot of time
16 investigating voter fraud. Is that correct?

17 DAVID MAXWELL: Actually, the numbers
18 that I've compiled for you are from 2002.

19 REPRESENTATIVE ANCHIA: From 2002 --

20 DAVID MAXWELL: To --

21 REPRESENTATIVE ANCHIA: Perfect.
22 Perfect.

23 And it's been a priority of the Attorney
24 General's office. Correct?

25 DAVID MAXWELL: It is -- it is one of



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1 our priorities, yes, sir.

2 REPRESENTATIVE ANCHIA: Okay. There
3 are many different types of voter fraud. Is that
4 correct?

5 DAVID MAXWELL: That's correct.

6 REPRESENTATIVE ANCHIA: Give me some
7 examples.

8 DAVID MAXWELL: There is illegal
9 voting. There's voting harvesting. Illegal voting
10 includes people who don't have the right to vote.
11 They may not be a citizen. They may be voting
12 because they're on felony probation or parole, those
13 types of things.

14 REPRESENTATIVE ANCHIA: Vote
15 harvesting, which is primarily a mail-in ballot --

16 DAVID MAXWELL: A mail-in ballot --

17 REPRESENTATIVE ANCHIA: -- scheme --

18 DAVID MAXWELL: Yes, sir.

19 REPRESENTATIVE ANCHIA: There's also
20 voter impersonation. Right?

21 DAVID MAXWELL: Yes, sir, there is.

22 REPRESENTATIVE ANCHIA: How does --
23 how does someone impersonate a voter at the polling
24 place?

25 DAVID MAXWELL: By pretending to be



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1 someone that they're not and going to vote and
2 taking the voter registration card and going -- and
3 voting that person's name.

4 REPRESENTATIVE ANCHIA: Since 2002,
5 how many cases of voter impersonation have you
6 investigated?

7 DAVID MAXWELL: I'll -- I'll -- I'll
8 give you some examples. The --

9 REPRESENTATIVE ANCHIA: Just a
10 number. I don't need any examples. Just a number.

11 DAVID MAXWELL: The ones that are
12 adjudicated, we probably have about seven. And then
13 we have ones that are not adjudicated, another five
14 or six.

15 REPRESENTATIVE ANCHIA: Okay. And
16 out of the entire universe of voter fraud that
17 you've investigated or in this case adjudicated,
18 what's -- is -- is it the largest portion of voter
19 fraud that you encounter?

20 DAVID MAXWELL: No, sir.

21 REPRESENTATIVE ANCHIA: Would you
22 say -- would you say there's substantially more in
23 mail-in ballots?

24 DAVID MAXWELL: More in mail-in
25 ballots.



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1 REPRESENTATIVE ANCHIA: Okay.

2 DAVID MAXWELL: We have investigated
3 289 cases since 2002.

4 REPRESENTATIVE ANCHIA: And I know
5 that we're trying to augment the integrity of the
6 voting system, and I take the author at her word
7 about wanting to increase integrity in the process.
8 But this bill doesn't include mail-in ballots, does
9 it?

10 DAVID MAXWELL: I'm not familiar --
11 I'm not that familiar with the bill as far as what
12 it includes and what it doesn't.

13 REPRESENTATIVE ANCHIA: Well, I
14 believe it is not included in this bill.

15 DAVID MAXWELL: Okay.

16 REPRESENTATIVE ANCHIA: How often --
17 how often do people use multiple I.D.s, fake I.D.s?

18 DAVID MAXWELL: Well, that we have
19 documented, not that often. I mean, we -- we have
20 some cases here that -- that we have investigated,
21 but it doesn't comprise a large portion of our
22 investigation.

23 REPRESENTATIVE ANCHIA: Okay. And
24 maybe I didn't ask the question right. Let's --
25 let's take off your voting hat, Mr. Maxwell, for a



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1 minute and just put on your -- your -- your
2 prosecutor hat.

3 DAVID MAXWELL: Uh-huh.

4 REPRESENTATIVE ANCHIA: Do you ever
5 run across cases where people use fake Texas
6 driver's license to do any number of things --

7 DAVID MAXWELL: Yes, sir.

8 REPRESENTATIVE ANCHIA: -- including
9 drink?

10 DAVID MAXWELL: Yes, we do.

11 REPRESENTATIVE ANCHIA: Okay. And I
12 probably should -- should have asked this of DPS,
13 how many thousands of fake driver's licenses they
14 pick up every year, but I'll ask you.

15 Would -- would it be -- if -- if
16 someone's -- is intent on doing voter impersonation,
17 what would prevent them from taking a fake
18 identification, a fake I.D. to go vote?

19 DAVID MAXWELL: Nothing.

20 REPRESENTATIVE ANCHIA: Okay. Okay.

21 DAVID MAXWELL: I mean, they can
22 actually --

23 REPRESENTATIVE ANCHIA: I
24 know, again, we're concerned about preserving the
25 integrity of the process, but we're ignoring mail-in



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1 ballots as a major source of voter fraud in this
2 bill and then creating a system that can be fairly
3 easily circumvented by the use of a fake I.D.

4 Have you -- have you ever run across the
5 case where a -- a non-citizen -- how many cases of
6 non-citizenry, which is I know is different than
7 voter impersonation, but how many cases of
8 non-citizen voting have you adjudicated?

9 DAVID MAXWELL: One that comes to
10 mind was in Calhoun County and --

11 REPRESENTATIVE ANCHIA: Okay. Can
12 you talk a little about the facts of that?

13 DAVID MAXWELL: Yes. That was a City
14 Council woman who was running for J.P. And she went
15 out and solicited people who were not U.S. citizens
16 to vote and convinced them that they had the right
17 to vote.

18 REPRESENTATIVE ANCHIA: Uh-huh.

19 DAVID MAXWELL: And actually during
20 the investigation many of them told her that they
21 couldn't vote, but she convinced them that they
22 could.

23 REPRESENTATIVE ANCHIA: Right.

24 And the A.G., it's my understanding,
25 ensuring in that case did not pursue the



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1 non-citizens, because they didn't have the requisite
2 Mens Rea. Right?

3 DAVID MAXWELL: Right.

4 REPRESENTATIVE ANCHIA: Mens Rea is a
5 fancy legal term for mental state. Right?

6 DAVID MAXWELL: Yes.

7 REPRESENTATIVE ANCHIA: And, instead,
8 you prosecuted the City Council person. Correct?

9 DAVID MAXWELL: That's correct.

10 REPRESENTATIVE ANCHIA: And I know
11 that one comes to mind, because I think that's
12 the -- the most prominent case.

13 But is it -- is your view that we -- that
14 we have -- based on the investigations the Attorney
15 General's done that we have, I think it was said
16 earlier, hoards of non-citizens voting in our
17 elections?

18 DAVID MAXWELL: We have not
19 encountered that in our investigations.

20 REPRESENTATIVE ANCHIA: Thank you. I
21 appreciate your testimony today.

22 DAVID MAXWELL: Yes, sir.

23 UNIDENTIFIED REPRESENTATIVE: Yes,
24 sir.

25 When there's not a law requiring you to



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1 show an I.D. to vote, does it make it difficult to
2 find fraud that way?

3 DAVID MAXWELL: Yes, sir.

4 UNIDENTIFIED REPRESENTATIVE: So it's
5 fair to say that being there aren't a large number
6 of cases you all are able to prosecute, it doesn't
7 necessarily guarantee -- there is no law requiring
8 you to use an I.D. to vote, that in turn there are
9 no cases?

10 DAVID MAXWELL: That's correct.

11 UNIDENTIFIED REPRESENTATIVE: Thank
12 you.

13 UNIDENTIFIED SPEAKER: And speaking
14 of fraudulent driver's licenses, I chose -- and we
15 can bring back up DPS if we need, but I chose to
16 pull my own driver's license out. And if I need to
17 bring DPS up again, I will.

18 But do you know how many security measures
19 there are in the Texas driver's license now?

20 DAVID MAXWELL: No, I do not.

21 UNIDENTIFIED REPRESENTATIVE: Okay.
22 I'll bring DPS back up for that.

23 But are you all seeing an increase or
24 decrease in fraudulent driver's licenses or is that
25 even your business?



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1 DAVID MAXWELL: Well, give you some
2 background on me. I spent 38 years with DPS.

3 UNIDENTIFIED REPRESENTATIVE: Right.

4 DAVID MAXWELL: And 25 years of that
5 as a Texas ranger.

6 UNIDENTIFIED REPRESENTATIVE: Sure.

7 DAVID MAXWELL: And, yes, we have
8 investigated those offenses. And matter of fact,
9 recently you probably realize we put some of the DPS
10 people in jail for selling fraudulent driver's
11 licenses.

12 UNIDENTIFIED REPRESENTATIVE: Right.
13 But what they were selling was actual Texas driver's
14 licenses.

15 DAVID MAXWELL: That's correct.

16 UNIDENTIFIED REPRESENTATIVE: And
17 what I'm referring to is the ability to reproduce
18 this driver's license in my dorm room, my basement
19 at my home, you know, the back of my office. That
20 has become extraordinarily difficult, is it not?

21 DAVID MAXWELL: That's correct. It
22 is.

23 UNIDENTIFIED REPRESENTATIVE: Thank
24 you.

25 CHAIRMAN BONNEN: Representative



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1 Veasey?

2 REPRESENTATIVE VEASEY: The people
3 that were arrested within DPS for selling the fake
4 driver's licenses, what did you all find -- find
5 that they were selling those licenses so people
6 could go and vote?

7 DAVID MAXWELL: They were selling the
8 license for various reasons. I wasn't involved in
9 that investigation, so I couldn't speak specifically
10 to those details, although --

11 REPRESENTATIVE VEASEY: Does --

12 DAVID MAXWELL: -- they were -- it
13 was done by the Rangers.

14 REPRESENTATIVE VEASEY: As far as, I
15 guess, investigating voter impersonation, have -- is
16 it your understanding or -- or were you ever given
17 any directives or did you ever know of anyone that
18 was given any directives within the A.G.'s offices
19 to specifically go after and look for people that
20 were committing voter impersonation or any special
21 task force that were formed just to solely look for
22 voter impersonation?

23 DAVID MAXWELL: No. And if I could
24 just take a minute to tell you how we get our cases.
25 Our cases are referrals --



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1 REPRESENTATIVE VEASEY: Uh-huh.

2 DAVID MAXWELL: -- so we don't go
3 after -- we're not proactive in that we're going
4 after and looking for voter fraud. We get them one
5 of three ways. It can be an election judge or a
6 local official or a sheriff or someone like that who
7 refers it to us, and then we investigate it to see
8 if there's merit and continue with the investigation
9 that way.

10 The other referral is from the Secretary
11 of State. And that's where most of our referrals
12 come from.

13 And the third method is if you have two
14 citizens who give you sworn affidavits and it's --
15 involves an election that covers more than one
16 county, then the law says that we shall investigate.

17 So those are the three methods by where we
18 come on investigation and conduct these election
19 fraud investigations. So we're not proactively
20 going out and seeking them. They're referred to us.
21 And as they're referred to us, we decide what the
22 merit is and conduct the investigation.

23 CHAIRMAN BONNEN: Representative
24 Aliseda, do you have a question?

25 REPRESENTATIVE ALISEDA: Is it



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1 inconceivable to you an organization that was
2 interested in effecting an election could come into
3 a city and go to a homeless shelter, register a
4 bunch of individuals without identifying --
5 indicating on their voter registration that they
6 don't have any identification, obtaining those voter
7 registration certificates and then passing them out
8 and going and voting?

9 DAVID MAXWELL: Yes, sir, that could
10 happen.

11 REPRESENTATIVE ALISEDA: That could
12 happen?

13 DAVID MAXWELL: Yes, sir.

14 REPRESENTATIVE ALISEDA: In fact,
15 that was some of the scenarios that the public heard
16 on national T.V. that was alleged to have occurred
17 in Las Vegas and other areas. Is that not correct?

18 DAVID MAXWELL: I'm not familiar with
19 that, but I'll take your word for it.

20 REPRESENTATIVE ALISEDA: And is it --
21 you mentioned how the Attorney General gets
22 referrals to these particular cases.

23 It is a rare thing to have a -- a voter
24 fraud case referred to the Attorney General, is that
25 not right?



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1 DAVID MAXWELL: A voter fraud case?
2 We don't have a great deal of them, as you can tell,
3 289 since 2002.

4 REPRESENTATIVE ALISEDA: Right. But
5 what it requires is either these two disinterested
6 citizens or it requires a district attorney or a
7 county attorney that is willing to request your
8 assistance, is that not right?

9 DAVID MAXWELL: Yes, sir. I -- I
10 think you're trying to make a point that we don't do
11 all of the voter fraud investigations.

12 REPRESENTATIVE ALISEDA: That's
13 right.

14 DAVID MAXWELL: And that's correct.

15 REPRESENTATIVE ALISEDA: And, in
16 fact, the reality is that most district attorneys or
17 county attorneys don't do it, either?

18 DAVID MAXWELL: That could be
19 correct.

20 REPRESENTATIVE ALISEDA: For
21 political reasons.

22 DAVID MAXWELL: Yes.

23 REPRESENTATIVE ALISEDA: I have no
24 further questions.

25 CHAIRMAN BONNEN: Representative



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1 Harless, do you have a question? Okay. Thank you.

2 Any -- any other questions?

3 UNIDENTIFIED REPRESENTATIVE: Just
4 one last follow-up, because I think we missed a --
5 Representative Aliseda may have missed a step.

6 There's a way for a private citizen to
7 call the Secretary of State's office that would make
8 a complaint, correct, that would then get referred
9 to your office if they deem that it met the --

10 DAVID MAXWELL: If it had --

11 UNIDENTIFIED REPRESENTATIVE: -- the
12 standards of an Election Code violation. Isn't that
13 right?

14 DAVID MAXWELL: Yes, sir. And that's
15 what I was saying.

16 UNIDENTIFIED REPRESENTATIVE: Yeah.

17 DAVID MAXWELL: And that's the
18 methodology whereby we get the referrals from the
19 Secretary of State.

20 UNIDENTIFIED REPRESENTATIVE: Yeah.
21 Okay.

22 DAVID MAXWELL: So --

23 UNIDENTIFIED REPRESENTATIVE: Okay.
24 So it doesn't exclusively depend on a -- a D.A. or
25 county attorney sending a referral to you or asking



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1 you for help; a -- a private citizen can call the
2 Secretary of State's office and send them
3 information related to an Election Code violation --

4 DAVID MAXWELL: That's correct.

5 UNIDENTIFIED REPRESENTATIVE: -- that
6 then you would investigate. Right? Okay?

7 DAVID MAXWELL: But the Secretary of
8 State has to first certify --

9 UNIDENTIFIED REPRESENTATIVE: That's
10 right.

11 DAVID MAXWELL: -- that it meets
12 their requirements before they make the referral.

13 UNIDENTIFIED REPRESENTATIVE: Okay.
14 Okay. I just wanted to make sure I wasn't missing a
15 step.

16 DAVID MAXWELL: Okay.

17 CHAIRMAN BONNEN: Yeah. And, again,
18 it's kind of -- until there's a law requiring you to
19 show an I.D., it's kind of hard to go after people
20 who aren't voting as themselves. Correct?

21 DAVID MAXWELL: That's correct.

22 CHAIRMAN BONNEN: Representative
23 Aliseda, do you have a question -- I'm sorry,
24 Representative Harless?

25 REPRESENTATIVE HARLESS: And what I



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1 thought he was asking, there's a lot of local
2 jurisdictions that investigate these voter frauds
3 that may not get referred to the Secretary of State,
4 isn't that correct?

5 DAVID MAXWELL: Well, that was my
6 experience as a Ranger, yes. I mean, most of the
7 counties that I worked in, they were worked locally
8 by them or -- or the Texas Rangers.

9 CHAIRMAN BONNEN: Okay.

10 DAVID MAXWELL: Uh-huh.

11 CHAIRMAN BONNEN: Thank you.

12 UNIDENTIFIED REPRESENTATIVE: How
13 would you go about investigating an allegation of
14 voter impersonation, just out of curiosity?

15 DAVID MAXWELL: It depends on what
16 you have to start with.

17 UNIDENTIFIED REPRESENTATIVE: Well --

18 DAVID MAXWELL: It's like any other
19 investigation --

20 UNIDENTIFIED REPRESENTATIVE: -- you
21 have an election judge that complains, "Hey, we had
22 an individual with purple hair come in and vote
23 twice". How are you going to find that individual?

24 DAVID MAXWELL: If you have no more
25 information than that, it's going to be difficult.



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1 Some of the cases that we've had that
2 we've investigated, the election judge knew the
3 people who were involved and knew that they voted
4 twice. And one was obviously voting in a name that
5 was not his. But you have to have, obviously, more
6 knowledge than that, because it's a needle in a
7 haystack.

8 UNIDENTIFIED REPRESENTATIVE: Well,
9 we have a state that's grown, I don't know, what,
10 faster than any other state in the union. We are
11 not going to have situations where election judges
12 or poll workers necessarily know the individuals
13 that are coming in to vote, especially in the big
14 cities, is that not right?

15 DAVID MAXWELL: That's correct. When
16 I started with DPS in '72, there were 12 million
17 people in Texas. And now we have 23 --

18 UNIDENTIFIED REPRESENTATIVE: 25, I
19 thought.

20 DAVID MAXWELL: -- 24 million people.

21 CHAIRMAN BONNEN: It's not important
22 to this hearing. Any other questions, Members?
23 Thank you.

24 We're going to attempt now -- I think we
25 have Justin Levitt, the professor at University of



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1 Loyola Law School in California, Los Angeles, one of
2 the expert witnesses. We're -- we're attempting to
3 pull him up and give him his opportunity.

4 JUSTIN LEVITT: (Inaudible).

5 CHAIRMAN BONNEN: Let's see. Can
6 we --

7 JUSTIN LEVITT: I'm not sure if you
8 can see or hear me.

9 CHAIRMAN BONNEN: Well, we can hear
10 you --

11 JUSTIN LEVITT: (Inaudible).

12 CHAIRMAN BONNEN: Professor Levitt,
13 we can hear you, but we have to also be able to see
14 you and you see us. And we're -- we're solving that
15 problem right now if you would just bear with us one
16 moment.

17 JUSTIN LEVITT: (Inaudible).

18 CHAIRMAN BONNEN: Are you able to see
19 us?

20 JUSTIN LEVITT: I am unable [sic] to
21 see you at this time.

22 CHAIRMAN BONNEN: Very good. And
23 soon we'll be able to see you.

24 Great. We see you now. I hope we didn't
25 make you late for your class and --



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1 JUSTIN LEVITT: No. And the students
2 quite appreciated your (inaudible).

3 CHAIRMAN BONNEN: Great. And I
4 appreciate your showing back up.

5 Justin Levitt, Professor, Loyola Law
6 School, Associate Professor of Law, constitutional
7 law and election law is here by Skype to testify
8 against Committee Substitute Senate Bill 14.

9 Professor, you'll be given ten minutes
10 without interruption to give your testimony, and
11 then the Members of the Committee may have questions
12 to follow up with that. So we appreciate your
13 coming back on with us. And your ten minutes begins
14 now.

15 JUSTIN LEVITT: Thank you very much,
16 Mr. Chair, Members of the Committee. I greatly
17 appreciate your flexibility with the technology
18 today and with my schedule and thank you very, very
19 much for the opportunity to testify here today.

20 As you mentioned, my name is Justin
21 Levitt. I'm Associate Professor of -- at Loyola Law
22 School in Los Angeles. I last had the privilege of
23 appearing before this committee a few years ago when
24 I was then counsel with a non-partisan (inaudible)
25 Center For Justice (inaudible) School of Law. My



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1 work there grounded election policies in a
2 hard-nosed look at the available evidence behind the
3 policies in question and prided myself on in-depth
4 factual research and careful cost benefit analysis.

5 I was last before you two years ago
6 (inaudible) job and my role have changed, but I
7 would suggest to you that the facts have not.

8 As I understand it, this hearing is about
9 new legislation (inaudible) to restrict the ways in
10 which voters can identify themselves when they
11 appear (inaudible) at the polling place. And I
12 understand you've had extensive testimony already
13 today, and I thank you very much for adding me onto
14 that list. Much of that testimony, I suspect, has
15 addressed the potential costs of this litigation,
16 both in terms of physical costs, human costs
17 including costs relevant to litigation or review
18 under Section 5 of the Voting Rights Act.

19 I would like to focus instead of that on
20 what, at least in my view, are the negligible
21 benefits of the policy that you're considering; in
22 particular, legislation requiring certain
23 restrictive forms of identification at the polls
24 when you show up to vote is designed to get
25 (inaudible) and can only possibly get at only one



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1 particular problem. The only thing that restrictive
2 I.D. rules could possibly target is impersonation,
3 attempting or pretending to be someone else when you
4 show up at the polls.

5 In my work at (inaudible) I reviewed and
6 documented (inaudible) of all kinds of fraud and
7 some I validated. Some, in fact, were true. More
8 often, the allegations were inaccurate, and we
9 managed to do the research (inaudible). In the
10 course of this research what was notable to me and
11 which we've carefully documented is that
12 impersonation fraud stands out. It's the only sort
13 of fraud that identification rules at the polls
14 could possibly prevent. And what stands out about it
15 is how very rare it appears to be.

16 I know that some will claim that -- that
17 my work both published and before you today denies
18 that fraud exists. And I want to be very, very
19 clear. Some types of fraud are really out there for
20 real, for sure, more than many people believe,
21 because allegations are often (inaudible)
22 sensational or sloppy and confuse clerical error
23 with real fraud. But sadly, people still do buy
24 votes, they still do pressure voters in nursing
25 homes. They still do commit fraud using absentee



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1 ballots. They still do occasionally submit fake or
2 fraudulent registration forms -- voter registration
3 forms. All of that still occasionally happens.

4 What they don't appear to do with any sort
5 of frequency is commit the sort of fraud that
6 restrictive I.D. rules can fix. At the end of the
7 day, there are (inaudible) substantiated cases, but
8 really just a tiny, tiny handful out of hundreds of
9 millions of ballots. Americans are struck and
10 killed by lightening far more often.

11 And some say -- and I think I believe I
12 heard an official just before I got on mentioning
13 part of this, that the few reports may be because
14 this sort of fraud is hard to find or hard to
15 prosecute. The comparison is often made to
16 littering, that you don't know who does it and,
17 therefore, it's hard to know when it happens.

18 But for impersonation fraud -- and there
19 will often be eye witnesses; there will often be a
20 victim that - that is, whoever's being
21 impersonated - and there will always be a paper
22 trail. That is, there is always the signature
23 registered in the poll book at the very least. And
24 if you want to influence an election, if you're out
25 to steal an election, you need a conspiracy of many



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1 impersonators, which means many persons for someone
2 to cry foul. If this sort of fraud is, in fact,
3 like littering, what we're hearing is lots and lots
4 of complaints, but nobody's actually found garbage
5 in the streets.

6 The hunt for impersonation fraud has been
7 on. At the federal, state, local law enforcement
8 have all had a fair amount of resources devoted to
9 finding and rooting out fraud and have made voter
10 fraud in particular a priority to track, a very
11 pensive priority for some to track with millions of
12 taxpayer dollars spent on the hunt. And that's not
13 to mention the private entities that would gladly
14 spread word if there were any sort of fire behind
15 the smoke.

16 This fraud happened (inaudible) with any
17 sort of frequency. If people actually impersonated
18 others at the polling place with any sort of
19 frequency, if there were conspiracies to steal votes
20 or steal elections, then over the last decade the
21 phones should have been ringing off of the hook.
22 But, instead, there was apparently (inaudible).
23 Every year there are far more reports of UFO
24 sightings then there are the sort of fraud that
25 restrictive I.D. rules could possibly prevent.



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1 The exceptionally rare phenomenon has been
2 used, it seems, to drive policy. And it seems to
3 create more problems than it solves. And
4 restrictive I.D. rules regrettably seem like a good
5 example of this. Though they don't solve real
6 problems with people impersonating others to seal an
7 election or steal votes, they do create (inaudible).
8 You start shutting down the ways people can prove
9 they are who they say they are, then you start
10 preventing the eligible people out of the process.

11 Most eligible citizens, we know, have
12 I.D., even the sort of I.D. that you're asking. But
13 many do not. And available research shows that
14 those without are disproportionately elderly and
15 minority citizens.

16 The last time I had a privilege to testify
17 before you, I waited in line at the airport right
18 behind a senior citizen without a photo I.D. I
19 don't know if she was over 70 or not. It's
20 certainly not polite of me to ask. But she was
21 able, even without in I.D., to get on a plane just
22 fine. And I believe that her destination was Texas.
23 I would hope that if she landed and she were, in
24 fact, a resident and citizen and otherwise eligible,
25 that even without a photo I.D. she would have been



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1 able to express her right to vote.

2 Making things more difficult at the polls
3 also increases the burden or potential burden on
4 poll workers and on election officials. It
5 increases the chance of confusion for both people
6 that don't have I.D. with them or don't know how
7 [sic] to come back later. It increases the chance
8 of provisional ballots, which are, themselves, an
9 expense. And all of this doesn't make voters
10 actually feel any safer. The best research that
11 I've seen so far on this is an article published in
12 the Harvard Law Review. It looks for a significant
13 correlation between citizens who are asked to show
14 photo I.D., whether they felt protected against
15 voter fraud, and it found no correlation at all.
16 Showing extra I.D. doesn't make the public anymore
17 confident that the elections are free from fraud.

18 This research shows, to me, that there's
19 not a lot to gain from this new restrictive I.D. law
20 that you all are considering.

21 Contrary, I'll say, to the bill analysis
22 that I've seen, Texas does, in fact, already have
23 several safeguards to make sure voters are who they
24 say they are. One of them comes from formal law.
25 New voters will be checked against other government



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1 systems when they register, and if information
2 doesn't match they'll be asked to show a document
3 from an inclusive list designed to make sure that no
4 eligible voter gets sent home, but that people are
5 asked to show that they are who they say they are.
6 And you find this requirement in Section 13.072 of
7 the current Texas statutes, you find it in Election
8 Advisory 2010-11. These are up-to-date statutes and
9 they're doing the job.

10 Texas law already demands a document from
11 that very same list. If you don't have your
12 original registration certificate in hand when you
13 get to the polls and if for any reason you fake your
14 way through any of these requirements, it costs you
15 \$10,000 and ten years in prison for just one vote.
16 That's, to me, the best explanation for why the
17 rules don't yield very much. It's also the best
18 explanation for why impersonation fraud at the polls
19 is just so rare.

20 Given this safeguard that's already in
21 place, the kind of fraud that you're talking about
22 doesn't make any sense. The costs of impersonating
23 someone at the polls far outweigh the benefits. And
24 I'll suggest to you that that may well be the sale
25 for the law you're considering today.



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1 I thank you very much for your time and
2 for the opportunity for me to present this testimony
3 and -- and the research behind it substantially
4 similar to the research I submitted to you all two
5 years ago when you were considering this topic then.

6 I'm more than happy to answer any
7 questions that you may have. And, again, I greatly
8 appreciate your accommodating both me and my
9 students this afternoon.

10 CHAIRMAN BONNEN: Thank you.
11 Appreciate your patience.

12 Are there any questions, Members?
13 Representative Aliseda. Professor, Representative
14 Aliseda has a question.

15 REPRESENTATIVE ALISEDA: We've had a
16 lot of testimony today on just how showing an I.D.
17 is -- is an aspect of every day modern Americans'
18 life. Would you agree with that, that -- that --

19 JUSTIN LEVITT: (inaudible) -- I'm
20 sorry, Representative.

21 REPRESENTATIVE ALISEDA: -- that --
22 that you practically can't do anything in this
23 society without showing an I.D. Is that correct?

24 JUSTIN LEVITT: I would -- I would
25 agree that there are many, many ways in which



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1 showing an I.D. in lots of places makes life easier.
2 I actually think that most places in the private
3 sector, private sector companies that want as many
4 customers as possible may have an initial request to
5 show an I.D., but also have safeguards to allow you
6 to function even without one. I don't think anybody
7 would argue -- at least nobody that I know, credibly
8 would argue that it's not easier to do a whole bunch
9 of things in daily life without an I.D.

10 REPRESENTATIVE ALISEDA: But you --

11 JUSTIN LEVITT: I suspect --

12 REPRESENTATIVE ALISEDA: -- you
13 wouldn't --

14 JUSTIN LEVITT: -- (inaudible).

15 REPRESENTATIVE ALISEDA: -- you
16 wouldn't find it surprising that Americans expect to
17 show an I.D. to vote, at least the people that we've
18 heard testifying today?

19 JUSTIN LEVITT: I think it's not
20 surprising at all to find that maybe even 90,
21 95 percent of Americans, at least registered,
22 active, eligible voters, expect to show an I.D. in
23 all kind of circumstances. I think few of those are
24 constitutional arrays [sic]. And I think it even
25 more important that the 5 percent who manage,



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1 although they struggle, they manage to get by in
2 other arenas of life even without I.D. have at least
3 the right to exercise the fundamental value.

4 REPRESENTATIVE ALISEDA: You would
5 agree with me that showing an I.D. creates a
6 psychological feeling that you're doing something
7 that's important to safeguard whatever it is you're
8 trying to do?

9 JUSTIN LEVITT: I'd agree that that's
10 conventional knowledge for sure. The (inaudible)
11 that was wisdom, the one study that I mentioned
12 again published in the Harvard Law Review which
13 (inaudible) seriously has some (inaudible)
14 surprising --

15 UNIDENTIFIED REPRESENTATIVE:
16 (Inaudible) -- for many people --

17 UNIDENTIFIED REPRESENTATIVE:
18 (Inaudible).

19 JUSTIN LEVITT: -- doubt on how far
20 that goes. That is, it seems like it makes
21 commonsense for that to create a psychological sense
22 of security. But if you actually ask people how
23 confident they feel in their elections, the fact
24 that people have been asked to show an I.D. or not
25 actually doesn't make any difference. It turns out



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1 that if you feel confident in elections, you're
2 about as confident whether you're asked to show I.D.
3 or not. If you think they've been stolen, you think
4 they've been stolen whether you're asked to show
5 I.D. or not.

6 I -- I agree it seems to make sense
7 according to conventional wisdom, but when you look
8 at the numbers it's simply not what the numbers have
9 shown, that I've seen.

10 REPRESENTATIVE ALISEDA: Thank you.
11 No further questions. Thank you.

12 CHAIRMAN BONNEN: Professor, our Vice
13 Chairman, Mr. Veasey, would like to ask some
14 questions.

15 REPRESENTATIVE VEASEY: I just wanted
16 to ask you, how -- how -- how can State Legislators
17 come up with plans to deal with this type of
18 legislation when -- when there are concerns on --
19 you know, from -- from different groups and, you
20 know, different constituencies? Like one group that
21 we heard today was pretty much overwhelmingly
22 concerned -- you know, concerned about integrity of
23 the process and, you know, making sure that
24 fraudulent votes or voter impersonation doesn't
25 cancel out legitimate votes. And then you have



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1 other folks, you know, that have -- you know, that
2 are concerned about people being able to have equal
3 access to -- to the polls. And you know, in my
4 district, I particularly hear from people, you know,
5 that -- you know, that are -- that -- you know,
6 let's say they're 60 years old; they're baby
7 boomers. So they came of age in the civil rights
8 movement. And so they still have very vivid
9 memories and views of Dr. King and people marching.
10 And that constituency is very concerned about the --
11 you know, people having equal access to the polls.

12 So how can -- what can State Legislators
13 do to address both people's concerns, so it doesn't
14 seem like a one-sided deal as -- as being, you know,
15 rammed down one or the other's, you know, side?

16 JUSTIN LEVITT: Mr. Vice Chairman, I
17 certainly appreciate the question. And I don't envy
18 you the task that you have here or elsewhere in
19 reconciling a whole bunch of different objectives.

20 I think that would -- from what I've seen,
21 that the most steady source of (inaudible) and the
22 easiest way to ensure that your constituents have
23 confidence that you're legislating in the public
24 interest is to carefully weigh out as carefully as
25 you can the costs and the benefits of any



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1 legislation based on actual tangible evidence. And
2 the more that you do that, the more rooted you feel
3 that you're addressing problems that need to be
4 addressed with solutions that actually don't cause
5 more damage than you're trying to stave off.

6 And I'll add to that, whenever you're
7 talking about election legislation, people feel very
8 strongly indeed for very, very good reasons. I
9 think it's always important to consider election
10 legislation, the need to keep in mind not just the
11 majority, but the safeguards that every eligible
12 American citizen -- their capacity to pass a vote
13 effective. I think that it is really important that
14 this, among all constitutional rights, be protected.

15 And that means exactly as you've said,
16 maintaining the process against fraud, which -- to
17 make sure it's full of integrity and make sure
18 people's votes are counted without shutting out
19 those who (inaudible) want to participate and are
20 eligible to participate.

21 I'll suggest to you that the Texas Code as
22 it stands does a pretty good job of making sure that
23 fraud -- this -- this type of fraud showing up,
24 pretending to be someone else, doesn't enter the
25 system. And we think in order to change that we



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1 need some pretty -- we'd want some pretty solid
2 facts showing you that you were getting more out of
3 the legislation to change the system than the cost
4 that you put into it.

5 CHAIRMAN BONNEN: Okay. Professor,
6 I -- does anyone have any questions? Members?
7 Professor, we appreciate your time and --
8 oh, Representative Anchia --

9 UNIDENTIFIED REPRESENTATIVE:
10 (Inaudible).

11 CHAIRMAN BONNEN: Okay. Justin,
12 again, you can see us currently --

13 JUSTIN LEVITT: Yes, I can --

14 CHAIRMAN BONNEN: -- and we can see
15 you. Okay. Professor, we appreciate you coming
16 back online and appreciate your time today.

17 JUSTIN LEVITT: Thank you very much,
18 Mr. Chair --

19 CHAIRMAN BONNEN: Thank you --

20 JUSTIN LEVITT: -- (inaudible) thank
21 all the Members for -- for being -- for weighing
22 this issue.

23 CHAIRMAN BONNEN: Absolutely. Thank
24 you very much. Thank you.

25 Is there anyone else here wishing to



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1 testify on, for or against the Committee Substitute
2 to Senate Bill 14?

3 UNIDENTIFIED REPRESENTATIVE: Can I
4 make a comment before we close?

5 CHAIRMAN BONNEN: Yeah, yeah.

6 With that being the end of our testimony,
7 the Chair will call on Representative Harless to
8 comment out Committee Substitute to Senate Bill 14
9 and -- and we'll allow Representative Anchia to have
10 a comment after that.

11 REPRESENTATIVE VEASEY:
12 Representative Veasey.

13 CHAIRMAN BONNEN: Veasey. I'm sorry.
14 Veasey.

15 UNIDENTIFIED REPRESENTATIVE:
16 (Inaudible) that happened some.

17 CHAIRMAN BONNEN: You all need some
18 I.D.s. You all need some I.D.s or something.

19 REPRESENTATIVE VEASEY: I didn't
20 think I was handsome. That made my day. Thank you.
21 That made my day.

22 REPRESENTATIVE HARLESS: So you want
23 me to close and then you'll make a comment?

24 REPRESENTATIVE VEASEY: Yeah.

25 CHAIRMAN BONNEN: I want you to



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1 close.

2 REPRESENTATIVE HARLESS: Okay. Okay.

3 I will try and keep this short, because I know all
4 of you are tired. The House Committee on Elections
5 Interim Report to the 82nd Legislature concluded
6 Charge 3 on the prevalence of fraud in Texas
7 elections by stating the fact that states across the
8 nation are passing voter I.D. laws is proof enough
9 that public concern regarding the potential of voter
10 fraud.

11 While there is and perhaps will always be
12 disagreement regarding the extent of fraud, the lack
13 of public confidence in our voting system cannot be
14 questioned.

15 Voter I.D. laws have been upheld by the
16 Supreme Court in the Indiana photo I.D. law and the
17 Department of Justice in the Georgia photo law.

18 We've heard more stories today about
19 potential fraud. And there is more media stories
20 reported on or about voter fraud in Texas that would
21 kill more trees than I want to take responsibility
22 for by presenting those today.

23 People who lack confidence in the election
24 system show -- show no reason to show up and vote.
25 It is an -- imperative that we protect the public's



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1 confidence in the election by deterring and
2 detecting fraud.

3 This bill is in compliance with the U.S.
4 Supreme Court decision which upheld that the Indiana
5 voter I.D. legislation, because it deters and
6 detects fraud, it protects the public confidence in
7 election. It counts only eligible voters vote and
8 also complies with the Supreme Court decision,
9 because it offsets the burden on voters by providing
10 access to free photo I.D., allows for provisional
11 and absentee ballots, ensures that obtaining a photo
12 I.D. is no more burdensome or inconvenient than the
13 un -- the usual act of voting, and provides
14 exceptions for the elderly, disabled and indigent
15 voters.

16 Elections are too important to leave
17 unprotected, not to mention the perception of
18 possible fraud continues to contribute to low
19 confidence in our election system. Clear evidence
20 that people have lost faith in the integrity of the
21 ballot box and the inability to prove any
22 unreasonable burden to any legal voter is all --
23 that -- all these states that have upheld these
24 laws.

25 This legislation is not a radical concept.



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1 SB-14 is just asking that every voter verify you --
2 you are who say you are before you cast a vote.

3 I appreciate your time and attention, and
4 ask that we quickly and favorably vote SB-14 out of
5 committee. And I close.

6 CHAIRMAN BONNEN: Thank you.
7 Representative Veasey.

8 REPRESENTATIVE VEASEY: Well, hold on
9 a second.

10 CHAIRMAN BONNEN: Yeah, he's going to
11 talk on the bill. Go ahead.

12 REPRESENTATIVE VEASEY: Is that okay?

13 CHAIRMAN BONNEN: Yeah. Absolutely.

14 REPRESENTATIVE VEASEY: I wanted to
15 say that I think that every one of us, Democrat,
16 Republican, we want to make sure that we have fair
17 elections. We want to make sure that only those who
18 go and vote in person -- we want to make sure that
19 it is the actual person who has the voter
20 registration card or whose name is on the bill or
21 whose photo is on the I.D. already, we want -- all
22 of us want to ensure that that -- that that actual
23 person is voting and not -- someone is not
24 committing voter impersonation and voting for them.

25 We also want to make sure that -- that we



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1 don't put hurdles in front of people. And -- and,
2 you know, and we also want to make sure that before
3 we implement any new laws that there's actual proof
4 of what is being alleged that is going on.

5 And you know, once again, I know there
6 were all sort of excuses as to why voter
7 impersonation could not be proved, but over and over
8 and over again we asked people to offer up, you
9 know, evidence. And there was never any.

10 I was really disturbed and I shared the
11 E-mail with you earlier about -- about the Tarrant
12 County Democrat -- Tarrant County Republican party
13 and then [sic] sent out an E-mail saying that
14 there's voter fraud going on in these Democratic
15 precincts and we need people to go over there, but
16 be careful because all those precincts are in bad
17 neighborhoods.

18 And then I saw this sign that a group
19 called the King Street Patriots put out, and that's
20 not a -- that's not a rap group. That is some sort
21 of political organization. And they actually -- you
22 can't see it from here, but they actually
23 photo-shopped a sign onto an African American woman
24 that said, "I only got to vote once."

25 Now, what I'll do -- and I was going to



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1 show it at the end of committee, but I'm not going
2 to do it now. But I'll -- I'll -- I'll invite
3 you -- I think that's the same thing.

4 UNIDENTIFIED REPRESENTATIVE: Yeah.

5 REPRESENTATIVE VEASEY: But I'll
6 invite you to come up afterwards. I have a video
7 from a -- a picture that came -- that came out of
8 1915. The picture is about to be 100 years old in a
9 few years. The name of the movie is "Birth Of A
10 Nation". And "Birth Of A Nation" was a very popular
11 film. As matter of fact, the film was the top
12 grossing Hollywood film for over 20 years until Snow
13 White And The Seven Dwarfs displaced it and more and
14 more people started getting into talkies. And
15 that's a term for movies with sound. And the --
16 the -- the movie has several different themes to it
17 that -- and most of the things in there we would
18 find -- we would think that it was absolutely
19 ridiculous that people thought this way. But just
20 like everyone has said that -- that -- who's in
21 support of the voter I.D. bill has said that
22 85 percent of the people in this country are for
23 voter -- some form of voter I.D. 85 percent of the
24 people thought all the things in this movie were
25 real about African Americans. And one of the things



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1 in -- in the movie that it deals with is voter fraud
2 and that African Americans are -- are -- are --
3 newly-freed blacks are just -- are just committing
4 voter impersonation in mass droves. So this is
5 nothing new.

6 And it's amazing to me that people would,
7 you know, actually think that after being in
8 shackles and living in shanties that -- that you
9 would think that people would actually want to
10 commit voter fraud after just being freed. But
11 that's what people thought.

12 And I think it's very dangerous to make
13 allegations that there's all this voter fraud and
14 voter impersonation going on.

15 When this movie came out in 1915, the Ku
16 Klux Klan had -- right before this movie came out in
17 1915 in January, the Ku Klux Klan had a membership
18 of zero. It had a membership of zero since it was
19 formed by a group of former Confederate soldiers.
20 It had disbanded after reconstruction and -- and the
21 organization was defunct. Before all these
22 allegations of voter impersonation and all these --
23 and all these other things that were stirred up in
24 this movie, Klan membership swelled to over 400,000.
25 And -- and -- and people believed these allegations



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1 of voter impersonation and many other things so much
2 that the movie was actually viewed in the White
3 House, and President Woodrow Wilson said that --
4 that, "It's like writing history in lightening." If
5 you saw the movie you would think it was like
6 writing history in molasses, because it's an old
7 movie and it tends to want to make the point a lot
8 slower. But the President of the United States,
9 after viewing it in the White House, said, "It's
10 like writing history in lightening. And my only
11 regret is that it is all so terribly true."

12 And people believed these things with
13 absolutely no proof whatsoever. They were basically
14 just sort of wild rumors about voting irregularities
15 and voter impersonation, and people believed it.
16 And what happened after the movie came out was that
17 people and -- and particularly in southern states
18 tried to enforce sort -- sort of unwritten codes
19 about who would vote, literacy tests, and they put
20 barriers in front of people, because people believed
21 the things that were said in here. And people just
22 believed wild rumors. And so what I don't want to,
23 you know, get into and what I don't want to -- to
24 pass is anything that is just based just on things
25 that people have heard. There's just way too much



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1 of that.

2 There is too much of it going on on the
3 Internet. We have a considerable number of people
4 in this State that think the President of the United
5 States wasn't even born in America. They think that
6 his birth certificate is -- is fake, even -- despite
7 all the proof that's been given. And it's a
8 significant number. It's not just a small minority.
9 It would be nice if it was just occurring, you know,
10 in 0.5 percent of the people, but it's actually a
11 significant number of people in our State. And I
12 think that by passing a bill that -- that -- that
13 perpetuates this sort of thought and these sorts of
14 wild rumors is not good. And, you know, I -- I
15 think that is -- that it's really fortunate we made
16 the progress that we have in this country and that
17 the times in the movie -- that, most of them, we
18 would think are absolutely silly. But it's amazing
19 that after -- over -- it's been well over 100 years
20 since reconstruction that people still have this
21 sort of suspicion of certain people that are voting
22 illegally or are voting -- or -- or impersonating
23 voters.

24 And so if you want to stay afterward
25 and -- and look at the scene of the movie with me,



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1 I'll invite you to. There is a sign about voter
2 impersonation in the movie, and I'll invite you to
3 come up afterwards. But -- but I think that we're
4 all ready to conclude now, because it's been a busy
5 day. All of us have so many things to do with
6 various committee hearings, and I appreciate
7 everyone coming to testify. I know that if you're
8 for this bill or against it that you feel strongly
9 about it. And I appreciate you taking time out of
10 your busy day to take time to come to the Capitol
11 and participate in democracy. Thank you.

12 CHAIRMAN BONNEN: Thank you, Vice
13 President Veasey.

14 At this time the Chair withdraws the
15 Substitute to Senate Bill 14 and leaves Senates Bill
16 14 pending before the Committee.

17 Is there any further business that anyone
18 would like to discuss or needs to be discussed?

19 Hearing none, the House Select Committee
20 On Voter Identification And Voter Fraud is now
21 adjourned subject to call of the Chair.

22 Thank you, Members.
23
24
25



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